

# FEDERAL REGISTER

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## TITLE 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

#### PART 8—PROMOTION, DEMOTION, REASSIGNMENT AND TRANSFER

#### PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTIONS IN FORCE

#### MISCELLANEOUS AMENDMENTS

1. Under authority of § 6.1 (a) of Executive Order No. 9830, and at the request of the Administrator, Housing and Home Finance Agency, the Commission has determined that three positions of Assistant Administrator, Housing and Home Finance Agency, and one position of Special Assistant to the Assistant Commissioner (Field Operations), Federal Housing Administration, should be excepted from the competitive service. Effective upon publication in the **FEDERAL REGISTER**, these positions are added to § 6.4 (a) (39). In addition, § 6.4 (a) (39) and § 6.4 (b) (2) are revised and reissued to reflect changes in the organization of the Housing and Home Finance Agency.

§ 6.4 *Lists of positions excepted from the competitive service—(a) Schedule A.* \* \* \*

(39) *Housing and Home Finance Agency: Office of the Administrator.* (i) Assistant to the Administrator, Assistant to the Administrator (Program), Assistant to the Administrator (Lanham Act Functions).

*Home Loan Bank Board.* (ii) One Assistant to the Board.

(iii) One Assistant to the Chairman of the Board.

(iv) One private secretary to the Chairman of the Board.

(v) One General Counsel and one Assistant to the General Counsel.

(vi) One Financial Adviser.

(vii) The Governor and three Deputy Governors of the Federal Home Loan Bank System.

(viii) One Assistant to the Governor of the Federal Home Loan Bank System.

(ix) One Associate General Counsel, Federal Home Loan Bank System.

(x) One General Manager and two Deputy General Managers, Federal Savings and Loan Insurance Corporation.

(xi) One Associate General Counsel, Federal Savings and Loan Insurance Corporation.

(xii) All field positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions, or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom, and all temporary field positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions.

(xiii) One General Manager and two Deputy General Managers, Home Owners' Loan Corporation.

(xiv) One Associate General Counsel, Home Owners' Loan Corporation.

*Federal Housing Administration.* (xv) One First Assistant Commissioner, five Assistant Commissioners, one Assistant to the Commissioner, five Zone Commissioners, and one Special Assistant to the Assistant Commissioner (Field Operations).

(xvi) An Executive Secretary of the Administration.

(xvii) Two private secretaries or confidential assistants to the Commissioner.

(xviii) One chauffeur to the Commissioner.

(xix) A General Counsel.

(xx) One Assistant to the Commissioner on Public Relations.

(xxi) Sixty-five Field Directors (State, District, and Territorial).

*Public Housing Administration.* (xxii) One private secretary or confidential assistant to the Commissioner.

\* \* \*

(b) *Schedule B.* \* \* \*

(2) *Housing and Home Finance Agency: Public Housing Administration.*

(i) Administrative or custodial positions in the field service of the Public Housing Administration relating to the management or maintenance of Federal low-rent housing projects when, in the opinion of the Commission, appointment through competitive examination is impracticable: *Provided*, That no position shall

(Continued on p. 3067)

## CONTENTS

	Page
<b>Agriculture Department</b>	
<i>See also</i> Animal Industry Bureau;	
Commodity Credit Corporation;	
Commodity Exchange Authority;	
Entomology and Plant	
Quarantine Bureau.	
Proposed rule making:	
Milk handling; New York metropolitan area.....	3096
Rules and regulations:	
Beets, canned; U. S. standards..	3068
<b>Alien Property, Office of</b>	
Notices:	
Vesting orders, etc.:	
Benedix, M. Elisabeth.....	3108
Boch, Frieda.....	3105
Bollwinkel, Marie.....	3106
Fujishiro, Yasu.....	3106
Koch, Christoph.....	3107
Koster, Carlos.....	3106
Lesny, Frieda Dorothee.....	3107
Nickisch, Emilie.....	3107
Reusch, Joseph.....	3105
Schumacher, Sophie.....	3108
<b>Animal Industry Bureau</b>	
Rules and regulations:	
Applications for inspection or exemption; retail butchers, retail dealers, and farmers...	3071
Condemned carcasses and parts; tanking and denaturing.....	3072
Export stamps and certificates..	3073
Horse meat and products; inspection and handling.....	3074
Labeling.....	3072
Reinspection and preparation of products.....	3072
Sanitation.....	3071
Scope of inspection.....	3071
Transportation.....	3074
<b>Army Department</b>	
Rules and regulations:	
Armed services procurement regulations; addition of subchapter:	
General provisions.....	3075
Procurement by formal advertising.....	3078
Procurement by negotiation..	3081
Interbranch and interdepartmental procurement.....	3074
Labor.....	3074





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### CONTENTS—Continued

<b>Civil Aeronautics Board</b>	Page
Notices:	
Sisto, Charles Robert; hearing	3099
Proposed rule making:	
Additional flight crew complement	3097
<b>Civil Service Commission</b>	
Rules and regulations:	
Competitive service, exceptions	3065
Promotion, demotion, reassignment and transfer	3065
Reductions in force; retention preference regulations	3065

### RULES AND REGULATIONS

#### CONTENTS—Continued

<b>Coast Guard</b>	Page
Notices:	
Approval of equipment	3098
Termination	3099
<b>Commodity Credit Corporation</b>	
Rules and regulations:	
Terms and conditions of cotton sales for export program; supplemental announcement	3068
<b>Commodity Exchange Authority</b>	
Rules and regulations:	
Offsetting long and short positions; application and closing out	3088
<b>Defense, Secretary of</b>	
Rules and regulations:	
Real property and functions pertaining to real property; transfer from Department of the Army to Department of the Air Force	3094
<b>Domestic Commerce, Office of</b>	
Rules and regulations:	
Allocations and export priorities system operation	3088
Delegations of authority	3088
Materials orders	3088
Organization and functions, general	3088
Procedure rules	3088
<b>Entomology and Plant Quarantine Bureau</b>	
Rules and regulations:	
Fruits, vegetables, and cut flowers; certification requirements under Japanese beetle quarantine	3071
<b>Federal Communications Commission</b>	
Notices:	
Hearings, etc.:	
Berks Broadcasting Co. (WEEU)	3100
Griner-Dillon Broadcasting Co.	3100
KFAB Broadcasting Co. and Central States Broadcasting Co.	3101
Schacker, M. R., et al.	3101
Williamson, Bert, and John A. Bohn	3100
Wisconsin Broadcasting System, Inc., et al.	3101
Proposed rule making:	
Class A and Class B telephone companies; revisions of certain schedules in Annual Report Form M	3097
<b>Federal Power Commission</b>	
Notices:	
Kentucky West Virginia Gas Co.; hearing	3102
<b>Federal Trade Commission</b>	
Notices:	
Handkerchief industry; trade practice conference	3102
<b>Indian Affairs, Office of</b>	
Rules and regulations:	
Flathead Indian irrigation project, Montana; operation and maintenance charges	3089

#### CONTENTS—Continued

<b>Internal Revenue Bureau</b>	Page
Proposed rule making:	
Farmers' returns, consent of Commissioner to be obtained when basis is changed from cash receipts and disbursements to inventory	3096
Rules and regulations:	
Tax-paid distilled spirits, bottling; records and reports	3089
<b>Interstate Commerce Commission</b>	
Notices:	
Directives to furnish cars for railroad coal supply; Baltimore and Ohio Railroad Co. (2 documents)	3102
Rules and regulations:	
Car service:	
Body ice in refrigerator cars; removal by consignee	3095
Goldberg Building Material Co.	3096
Icing at Roseville, San Jose or Stockton, Calif.	3095
<b>Loyalty Review Board</b>	
Rules and regulations:	
Operations; list of organizations designated by Attorney General	3067
<b>National Labor Relations Board</b>	
Rules and regulations:	
Description of organizations	3090
<b>Securities and Exchange Commission</b>	
Notices:	
Hearings, etc.:	
Kansas City Power & Light Co.	3104
Narragansett Electric Co.	3103
National Gas & Oil Corp.	3104
New York State Electric & Gas Corp.	3103
Philadelphia Co. et al.	3102
<b>Wage and Hour Division</b>	
Proposed rule making:	
Vegetable, fruit and fruit juice canning industry in Puerto Rico; recommendation for minimum wage rate	3097
Rules and regulations:	
Artificial flower industry in Puerto Rico; recommendation for minimum wage rate	3094
<b>CODIFICATION GUIDE</b>	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.	
<b>Title 3—The President</b>	Page
Chapter II—Executive orders:	
9830 (see T. 5, § 6.4)	3065
<b>Title 5—Administrative Personnel</b>	
Chapter I—Civil Service Commission:	
Part 6—Exceptions from the competitive service	3065
Part 8—Promotion, demotion, reassignment and transfer	3065
Part 20—Retention preference regulations for use in reductions in force	3065



## CODIFICATION GUIDE—Con.

<b>Title 5—Administrative Personnel—Continued</b>	Page
Chapter II—The Loyalty Review Board:	
Part 210—Operations of the Loyalty Review Board.....	3067
<b>Title 6—Agricultural Credit</b>	
Chapter II—Production and Marketing Administration (Commodity Credit):	
Part 295—Disposal of surplus agricultural commodities for export.....	3068
<b>Title 7—Agriculture</b>	
Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices):	
Part 52—Processed fruits, vegetables, and other products (inspection, certification, and standards).....	3068
Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture:	
Part 301—Domestic quarantine notices.....	3071
Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders):	
Part 927—Milk in New York metropolitan marketing area (proposed).....	3096
<b>Title 9—Animals and Animal Products</b>	
Chapter I—Bureau of Animal Industry, Department of Agriculture:	
Part 2—Scope of inspection.....	3071
Part 4—Applications for inspection or exemption; retail butchers, retail dealers, and farmers.....	3071
Part 8—Sanitation.....	3071
Part 14—Tanking and denaturing condemned carcasses and parts.....	3072
Part 17—Labeling.....	3072
Part 18—Reinspection and preparation of products.....	3072
Part 24—Export stamps and certificates.....	3073
Part 25—Transportation.....	3074
Part 29—Inspection and handling of horse meat and products thereof.....	3074
<b>Title 10—Army</b>	
Chapter VIII—Supplies and equipment:	
Part 809—Labor.....	3074
Part 810—Interbranch and interdepartmental procurement.....	3074
Part 851—General provisions.....	3075
Part 852—Procurement by formal advertising.....	3078
Part 853—Procurement by negotiation.....	3081
<b>Title 14—Civil Aviation</b>	
Chapter I—Civil Aeronautics Board:	
Part 41—Certification and operation rules for scheduled air carrier operations outside continental limits of the United States (proposed).....	3097

## CODIFICATION GUIDE—Con.

<b>Title 14—Civil Aviation—Con.</b>	Page
Chapter I—Civil Aeronautics Board—Continued	
Part 61—Scheduled air carrier rules (proposed).....	3097
<b>Title 15—Commerce</b>	
Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce:	
Part 329—Delegations of authority for the Office of Domestic Commerce.....	3088
Part 330—General organization and functions.....	3088
Part 334—Procedure rules.....	3088
Part 336—Regulations applicable to the operation of the allocations and export priorities system.....	3088
Part 338—Materials orders.....	3088
<b>Title 17—Commodity and Securities Exchanges</b>	
Chapter I—Commodity Exchange Authority (including Commodity Exchange Commission), Department of Agriculture:	
Part 1—General regulations under the Commodity Exchange Act.....	3088
<b>Title 25—Indians</b>	
Chapter I—Office of Indian Affairs, Department of the Interior:	
Part 130—Operation and maintenance charges.....	3089
<b>Title 26—Internal Revenue</b>	
Chapter I—Bureau of Internal Revenue, Department of the Treasury:	
Part 29—Income tax under I. R. C.; taxable years beginning after December 31, 1941 (proposed).....	3096
Part 189—Bottling of tax-paid distilled spirits.....	3089
<b>Title 29—Labor</b>	
Chapter II—National Labor Relations Board:	
Part 201—Description of organization.....	3090
Chapter V—Wage and Hour Division, Department of Labor:	
Proposed rule making.....	3097
Part 688—Minimum wage rate in the artificial flower industry in Puerto Rico.....	3094
<b>Title 32—National Defense</b>	
Chapter I—Secretary of Defense.....	3094
<b>Title 47—Telecommunication</b>	
Chapter I—Federal Communications Commission:	
Part 31—Uniform system of accounts for Class A and Class B telephone companies (proposed).....	3097
<b>Title 49—Transportation and Railroads</b>	
Chapter I—Interstate Commerce Commission:	
Part 95—Car service (3 documents).....	3095, 3096

be filled under this subdivision unless it is clearly demonstrated that the best interests of the service will be served thereby.

*Federal Housing Administration.* (ii) A Technical Director; a Land Planning Director; a Director of Research and Statistics.

(iii) A Comptroller.

(iv) Two Land Use Planners.

(Sec. 6.1 (a) E. O. 9830, Feb. 24, 1947, 12 F. R. 1259)

2. Section 8.104 is amended to read as follows:

§ 8.104 *Status and tenure unchanged.*

(a) The status or tenure of an employee will not be changed by promotion, demotion, reassignment or intra-agency transfer under this part. No time limit administratively placed on an appointment by inter-agency transfer shall affect the employee's right to permanent tenure in the agency in which employed unless he was transferred to a position with a definite time limitation imposed in accordance with § 2.114 (c) of this chapter, or in accordance with specific authority of the Commission.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

3. In § 20.3, the unnumbered paragraph beginning "Group C" is amended as follows:

*Group C.* All employees in the competitive service serving under appointments with definite time limitations imposed in accordance with § 2.114 (c) of this chapter, or in accordance with specific authority of the Commission, all employees in the excepted service with definite time limitations with one year or less, all noncitizen employees serving within the continental limits of the United States, its territories or possessions, all employees continuing beyond the automatic retirement age, and all annuitants appointed under section 2 (b) of the Civil Service Retirement Act, as amended.

4. Section 20.4 (c) (1) is amended to read as follows:

(1) They are currently serving under appointments with such definite time limitations as to bring them within Group C as defined in § 20.3.

(Sec. 12, 58 Stat. 390; 5 U. S. C. Sup. 231)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] H. B. MITCHELL,  
President.

[F. R. Doc. 48-5096; Filed, June 8, 1948; 8:48 a. m.]

## Chapter II—The Loyalty Review Board

## PART 210—THE OPERATIONS OF THE LOYALTY REVIEW BOARD

## ADDITIONAL ORGANIZATIONS

The following additional organizations have been designated by the Attorney General pursuant to Executive Order No. 9835, and are hereby added to Appendix A.



APPENDIX A—LIST OF ORGANIZATIONS DESIGNATED BY THE ATTORNEY GENERAL PURSUANT TO EXECUTIVE ORDER NO. 9835

The names of the organizations listed below were transmitted by the Attorney General to The Loyalty Review Board on May 27, 1948, and The Loyalty Review Board disseminated such information to all departments and agencies on May 28, 1948.

American Association for Reconstruction in Yugoslavia, Inc.  
American Committee for Protection of Foreign Born.  
American Committee for Yugoslav Relief, Inc.

The American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity.

American Croatian Congress.  
American League for Peace and Democracy, successor to American League Against War and Fascism and predecessor of American Peace Mobilization, both included in my letter of November 24, 1947.

American Russian Institute.  
American Slav Congress.  
Ausland-Organization der NSDAP, Overseas Branch of Nazi Party.  
California Labor School, Inc., 216 Market Street, San Francisco, California.

Central Council of American Women of Croatian Descent, aka Central Council of American Croatian Women, National Council of Croatian Women.

The Citizens Protective League.  
Civil Rights Congress of Michigan (see following paragraph).  
Civil Rights Congress, Milwaukee Chapter (see following paragraph).

Congress of American Women.  
Council for Pan-American Democracy.  
Friends of the Soviet Union and its successor American Council on Soviet Relations, both predecessors of the National Council of American Soviet Friendship, included in my letter of November 24, 1947.

The German-American Republican League.  
International Labor Defense.  
Jewish Peoples Committee.  
League of American Writers.  
National Council of Americans of Croatian Descent.

Negro Labor Victory Committee.  
The Peace Movement of Ethiopia.  
Peoples Educational Association (incorporated under name Los Angeles Educational Association, Inc. (a/k/a Peoples Educational Center, Peoples University, People's School).

People's Institute of Applied Religion.  
Serbian Vidovdan Council.  
Slovenian-American National Council.  
United Committee of South Slavic Americans.

United Harlem Tenants and Consumers Organization.

Wisconsin Conference on Social Legislation.

Young Communist League.

The Attorney General states further that among the organizations included in his letter of November 24, 1947, as originally having been named by Attorney General Biddle as within Executive Order 9300 or the Hatch Act, was the Michigan Federation for Constitutional Liberties. The correct name of the organization designated was the Michigan Civil Rights Federation which has been succeeded by, and now operates as the Michigan Chapter of the Civil Rights Congress. The Civil Rights Congress, which was designated by the Attorney General in his letter of November 24, has chapters in several states and localities. Illustrative of these are the Civil Rights Congress of

Michigan and the Civil Rights Congress, Milwaukee Chapter, listed above. Inasmuch as these various state and local subdivisions of the Civil Rights Congress are integral parts of the national organization, the designation of the parent body is intended to include all its branches.

(E. O. 9835, Mar. 21, 1947, 12 F. R. 1935)

THE LOYALTY REVIEW BOARD,  
UNITED STATES CIVIL SERVICE COMMISSION,  
SETH W. RICHARDSON,

Chairman.

[F. R. Doc. 48-5097; Filed, June 8, 1948; 8:48 a. m.]

## TITLE 6—AGRICULTURAL CREDIT

### Chapter II—Production and Marketing Administration (Commodity Credit)

[Supp. Announcement 13]

#### PART 295—DISPOSAL OF SURPLUS AGRICULTURAL COMMODITIES FOR EXPORT

##### SUPPLEMENTAL ANNOUNCEMENT TO TERMS AND CONDITIONS OF COTTON SALES FOR EXPORT PROGRAM

The terms and conditions of cotton sales for export program dated April 22, 1946 (6 CFR, 1946 Supp.), as amended (but not including the amendment effective June 2, 1948), is hereby further amended as to all export sales of which notice was received after December 31, 1947, 3:00 p. m., e. s. t., and prior to June 2, 1948, as follows:

Paragraph (a) of § 295.3, paragraph (c) of § 295.8, paragraph (b) of § 295.9, and paragraph (a) of § 295.12 are amended by substituting the date "January 1, 1949" for the date "July 1, 1948."

(Secs. 32, 2, 49 Stat. 774, 1151 as amended, sec. 203, 52 Stat. 38, 53 Stat. 975, sec. 41, 54 Stat. 627, sec. 34, 55 Stat. 407, sec. 21 (c), 58 Stat. 776; 7 U. S. C. 612 (c), 50 U. S. C. App. 1630 (c))

Dated this 3d day of June 1948.

RALPH S. TRIGG,  
President, Commodity Credit Corporation, Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 48-5124; Filed, June 8, 1948; 8:52 a. m.]

## TITLE 7—AGRICULTURE

### Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)

#### PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

##### UNITED STATES STANDARDS FOR CANNED BEETS<sup>1</sup>

On January 7, 1948, notice of proposed rule making was published in the FED-

<sup>1</sup> The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

ERAL REGISTER (13 F. R. 91) regarding the proposed revision of United States Standards for Grades of Canned Beets, as amended on August 1, 1944. After considering all relevant matters presented, including the proposals set forth in the aforesaid notice, the following revised United States Standards for Grades of Canned Beets are hereby promulgated pursuant to the authority contained in the Department of Agriculture Appropriation Act, 1948 (Pub. Law 266, 80th Cong., 1st sess., approved July 30, 1947).

§ 52.177 *Canned beets.* "Canned beets" means canned beets as defined in the definitions and standards of identity for canned vegetables (21 CFR, Cum. Supp., 52.990), issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(a) *Style of canned beets.* (1) "Whole" or "whole beets" means canned beets consisting of whole beets that retain the approximate original conformation of the whole beet.

(2) "Slices" or "sliced beets" means canned beets consisting of slices of beets irrespective of whether such slices are "Corrugated," "Fluted," "Wavy," or "Scalloped."

(3) "Quarters" or "quartered beets" means canned beets consisting of quarters of beets.

(4) "Dice" or "diced beets" means canned beets consisting of diced beets.

(5) "Julienne," "French style," or "shoestring" means canned beets consisting of strips of beets.

(6) "Cut" means canned beets consisting of units irrespective of whether such units are "segmented" or "wedge-shaped," (i) which are not uniform in size or shape or (ii) which do not conform to any of the foregoing styles.

(7) "Unit" means an individual beet or portion of a beet in canned beets.

(b) *Grades of canned beets.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned beets that possess similar varietal characteristics; possess a normal flavor and odor; possess a good color; are practically free from defects; are tender; and possess such uniformity of size and shape as to score not less than 85 points when scored in accordance with the scoring system outlined in this section.

(2) "U. S. Grade C" or "U. S. Standard" is the quality of canned beets that possess similar varietal characteristics; possess a normal flavor and odor; possess a fairly good color; are fairly free from defects; are fairly tender; and possess such uniformity of size and shape as to score not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of canned beets that fail to meet the requirements of U. S. Grade C or U. S. Standard.

(c) *Recommended fill of container.* The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purpose of



these grades. It is recommended that each container of canned beets be filled as full as practicable without impairment of quality and that the product and packing medium occupy not less than 90 percent of the total capacity of the container.

(d) *Recommended drained weight.* The drained weight recommendations in Table No. I of this paragraph are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purpose of these grades. The drained weight of canned beets is determined by emptying the contents of the container upon a circular sieve of proper diameter containing 8 meshes to the inch (0.097-inch square openings) and allowing to drain for 2 minutes. A sieve 8 inches in diameter is used for the No. 2½ size can (401 x 411) and smaller sizes; and a sieve 12 inches in diameter is used for containers larger than the No. 2½ size can.

TABLE NO. II—SIZES OF BEETS IN WHOLE BEETS

Word designation	Number designation	Count range per container				
		No. 1 Picnic	No. 2 can	No. 2½ can	No. 10 can	16 oz. glass
Tiny.....	Size 1.....	25 and over...	50 and over...	70 and over...	250 and over...	35 and over...
	Size 2.....	18 to but not including 25.	35 to but not including 50.	50 to but not including 70.	175 to but not including 250.	25 to but not including 35.
Small.....	Size 3.....	12 to but not including 18.	25 to but not including 35.	35 to but not including 50.	125 to but not including 175.	18 to but not including 25.
	Size 4.....	8 to but not including 12.	15 to but not including 25.	20 to but not including 35.	75 to but not including 125.	10 to but not including 18.
Medium.....	Size 5.....	5 to but not including 8.	10 to but not including 15.	15 to but not including 20.	50 to but not including 75.	7 to but not including 10.
	Size 6.....	Less than 5...	Less than 10...	Less than 15...	Less than 50...	Less than 7.
Assorted sizes. <sup>1</sup> Mixed sizes. <sup>2</sup>						

<sup>1</sup> Assorted sizes is a combination of any two adjacent sizes.

<sup>2</sup> Mixed sizes is a combination of more than two adjacent sizes.

(f) *Sizes of beet slices in sliced beets.* The size of any slice in sliced beets is determined by measuring the shortest diameter of the surfaces of the slice. The word designation of the various sizes of slices in sliced beets are shown in Table No. III of this paragraph.

TABLE NO. III—SIZES OF SLICES IN SLICED BEETS

Word designation	Shortest diameter in inches
Small.....	Less than 2 inches.
Medium.....	From 2 inches up to but not including 2½ inches.
Large.....	Not less than 2½ inches.
Assorted sizes. <sup>1</sup> Mixed sizes. <sup>2</sup>	

<sup>1</sup> Assorted sizes is a combination of any two adjacent sizes.

<sup>2</sup> Mixed sizes is a combination of all designated sizes.

(g) *Ascertaining the grade.* (1) The grade of canned beets may be ascertained by considering, in addition to the foregoing requirements of the respective grade, the following factors: Color, uniformity of size and shape, absence of defects, and texture. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

	Points
(i) Color.....	25
(ii) Uniformity of size and shape.....	15
(iii) Absence of defects.....	30
(iv) Texture.....	30
Total score.....	100

TABLE NO. I—RECOMMENDED DRAINED WEIGHTS, IN OUNCES, OF BEETS

Container size or designation	Style of canned beets				
	Whole	Diced	Quartered-cut	Sliced	Julienne
No. 2.....	12½	13	13	12½	11
No. 2½.....	19½	19½	19	19	18
No. 10.....	71	72	72	71	68
16 oz. glass.....	10½	10½	10	9½	9
No. 1 picnic.....	7½	7½	7½	7½	7

(e) *Sizes of beets in whole beets.* The size of any beet is determined by measuring the shortest diameter through the center transverse to the longitudinal axis of the beet. The word and number designations of the various sizes of beets in whole beets are shown in Table No. II of this paragraph. Such table also specifies the count range per container for stated container sizes.

regardless of the total score for the product (this is a limiting rule).

(2) *Uniformity of size and shape.* (i) Canned beets that are practically uniform in size and shape may be given a score of 12 to 15 points. "Practically uniform in size and shape" has the following meanings with respect to the various styles of canned beets:

(a) *Whole beets.* The size of the individual beet is not more than 2½ inches in diameter, measured as aforesaid; the beets may vary moderately in shape, and the weight of the largest beet does not exceed the diameter of the smallest beet by more than 50 percent of the diameter of the smallest beet.

(b) *Quartered beets.* The beets from which the quarters have been prepared were of a size not more than 2½ inches in diameter, measured as aforesaid, and the weight of the largest quarter does not exceed the weight of the smallest quarter by more than 50 percent of the weight of the smallest quarter.

(c) *Sliced beets.* The individual slice is not more than ⅝ inch in thickness when measured at the thickest portion; the size of each slice is not more than 3½ inches in diameter, measured as aforesaid, and the diameter of the largest slice does not exceed the diameter of the smallest slice by more than 50 percent of the diameter of the smallest slice.

(d) *Diced beets.* The units are practically uniform in size and shape with edges measuring not more than ¾ inch; and the aggregate weight of the units which are smaller than one-half of a cube and of all large and irregular units does not exceed 15 percent of the weight of all units.

(e) *Julienne, French style, or shoe-string.* The strips of beets are practically uniform in size and shape, with cross sections measuring not more than ⅝ inch, and the aggregate weight of all strips less than 1½ inches in length does not exceed 25 percent of the weight of all the strips.

(f) *Cut.* The individual units weigh not less than ¼ ounce nor more than 2 ounces each and the largest unit weighs not more than four times the weight of the smallest unit. An occasional unit which is not representative of the general size of all the units is excluded in determining size variation.

(ii) If the canned beets are fairly uniform in size and shape, a score of 8 to 11 points may be given. "Fairly uniform in size and shape" has the following meanings with respect to the various styles of canned beets:

(a) *Whole beets.* The size of the individual beet is not more than 2½ inches in diameter, measured as aforesaid; the beet may vary considerably in shape, and the diameter of the largest beet is not more than twice the diameter of the smallest beet.

(b) *Quartered beets.* The beets from which the quarters have been cut were of a size not more than 3½ inches in diameter, measured as aforesaid, and the weight of the largest quarter is not more than twice the weight of the smallest quarter.

(c) *Sliced beets.* The individual slice is not more than ⅝ inch in thickness when measured at the thickest portion;

(1) *Color.* (i) Canned beets that possess a good color may be given a score of 21 to 25 points. "Good color" means that the canned beets possess a color that is uniform, bright, and typical of canned beets produced from beets of similar varietal characteristics.

(ii) If the canned beets possess a fairly good color, a score of 18 to 20 points may be given. Canned beets that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means that the canned beets possess a color that is typical of canned beets produced from beets of similar varietal characteristics and such color may be variable or slightly dull.

(iii) Canned beets that fail to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 17 points and shall not be graded above U. S. Grade D or Substandard, re-



the size of each slice is not more than  $3\frac{1}{2}$  inches in diameter, measured as aforesaid; and the diameter of the largest slice is not more than twice the diameter of the smallest slice.

(d) *Diced beets.* The units are fairly uniform in size and shape, with edges measuring not more than  $\frac{1}{2}$  inch; and the aggregate weight of all units which are smaller than one-half of a cube and all large and irregular units does not exceed 25 percent of the weight of all units.

(e) *Julienne, French style, or shoe-string.* The strips of beets are fairly uniform in size and shape, with cross sections measuring not more than  $\frac{3}{16}$  inch and the aggregate weight of all strips less than  $1\frac{1}{2}$  inches in length does not exceed 40 percent of the weight of all the strips.

(f) *Cut.* The individual units weigh not less than  $\frac{1}{8}$  ounce nor more than 3 ounces each and the largest unit weighs not more than twelve times the weight of the smallest unit. An occasional unit which is not representative of the general size of all the units is excluded in determining size variation.

(iii) Canned beets that fail to meet the requirements of subdivision (ii) of this subparagraph may be given a score of 0 to 7 points and shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule).

(3) *Absence of defects.* (i) The factor of absence of defects refers to the degree of freedom from defective units. Defective units are slabs, units damaged by mechanical injury, units blemished by brown or black internal or external discoloration, pathological injury or insect injury and units blemished by other means.

(a) "Slab" means any portion of a whole beet obtained in slicing possessing only one cut surface or cut surfaces of unequal areas varying in diameter more than  $\frac{1}{2}$  inch.

(b) "Damaged by mechanical injury" means crushed, broken, or cracked units, units with excessively frayed edges and surfaces, units with unpeeled areas, excessively trimmed units, or damaged by other means.

(c) "Blemished" means any blemish affecting an aggregate area greater than the area of a circle  $\frac{3}{16}$  inch in diameter or any blemish which seriously affects the appearance or eating quality of the unit.

(ii) Canned beets that are practically free from defects may be given a score of 26 to 30 points. "Practically free from defects" has the following meanings with respect to the various styles of canned beets:

(a) *Whole beets.* The aggregate weight of all defective units does not exceed 15 percent of the weight of all the units, and of such 15 percent not more than one-half thereof or one beet, whichever weighs more, may consist of blemished units.

(b) *Sliced, quartered, and cut beets.* The aggregate weight of all blemished units and units damaged by mechanical injury does not exceed 15 percent of the

weight of all the units, and of such 15 percent not more than one-half thereof or one slice, quarter or cut, whichever weighs more, may consist of blemished units, and with respect to sliced beets not more than 10 percent of the weight of all the units may consist of units that are slabs.

(c) *Diced, Julienne, French style, or shoe-string beets.* The aggregate weight of all defective units does not exceed 10 percent of the weight of all the units, and of such 10 percent not more than one-half thereof may consist of blemished units.

(iii) Canned beets that are fairly free from defects may be given a score of 22 to 25 points. Canned beets that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" has the following meanings with respect to the various styles of canned beets:

(a) *Whole beets.* The aggregate weight of all defective units does not exceed 30 percent of the weight of all the units, and of such 30 percent not more than one-half may consist of blemished units.

(b) *Sliced, quartered, and cut beets.* The aggregate weight of all blemished units and units damaged by mechanical injury does not exceed 30 percent of the weight of all the units, and of such 30 percent not more than one-half thereof may consist of blemished units, and with respect to sliced beets not more than 25 percent of the weight of all the units may consist of units that are slabs.

(c) *Diced, Julienne, French style, or shoe-string beets.* The aggregate weight of all defective units does not exceed 25 percent of the weight of all the units, and of such 25 percent not more than one-half thereof may consist of blemished units.

(iv) Canned beets that fail to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 21 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(4) *Texture.* (i) The factor of texture refers to the tenderness of the beets, and the degree of freedom from stringy or coarse fibers.

(ii) Canned beets that possess a tender texture may be given a score of 26 to 30 points. "Tender texture" means that the beets are tender, not fibrous, and possess a uniform character.

(iii) If the canned beets possess a fairly tender texture, a score of 22 to 25 points may be given. Canned beets that fall into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly tender texture" means that the beets are fairly tender, may be variable in character but not tough or hard, and may possess a few stringy or coarse fibers.

(iv) Canned beets that fail to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 21 points and shall not be graded

above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(i) *Tolerance for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned beets, the grade for such lot will be determined by averaging the total scores of all containers, if:

(i) Not more than one-sixth of the containers comprising the sample fails to meet all the requirements of the grade indicated by the average of such total scores, and with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, must be within the range for the grade indicated;

(ii) None of the containers comprising the sample falls more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(j) *Score sheet for canned beets.* The following score sheet may be used to summarize the factors determining the various grades:

Container size.....		
Container code or marking.....		
Label.....		
Net weight (in ounces).....		
Vacuum (in inches).....		
Drained weight (in ounces).....		
Style.....		
Size of whole beets (count).....		
Size of sliced beets (diameter).....		
Factors		Score points
I. Color.....	25	(A) 21-25 (C) 18-20 <sup>1</sup> (D) 0-17 <sup>1</sup>
II. Uniformity of size and shape.....	15	(A) 12-15 (C) 8-11 (D) 0-7 <sup>1</sup>
III. Absence of defects.....	30	(A) 26-30 (C) 22-25 <sup>1</sup> (D) 0-21 <sup>1</sup>
IV. Texture.....	30	(A) 26-30 (C) 22-25 <sup>1</sup> (D) 0-21 <sup>1</sup>
Total score.....	100	
Normal flavor and odor.....		
Grade.....		

<sup>1</sup> Indicates limiting rule within classification.

(k) *Effective time and supersedure.* The revised United States Standards for Grades of Canned Beets (which are the fifth issue) contained in this section shall become effective thirty days after the date of publication of this revision in the FEDERAL REGISTER. (Pub. Law 266, 80th Cong.)

Issued at Washington, D. C., this 4th day of June 1948.

[SEAL] JOHN I. THOMPSON,  
Assistant Administrator, Pro-  
duction and Marketing Ad-  
ministration.

[F. R. Doc. 48-5122; Filed, June 8, 1948;  
8:52 a. m.]



### Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture

[B. E. P. Q. 570]

#### PART 301—DOMESTIC QUARANTINE NOTICES

##### CERTIFICATION REQUIREMENTS FOR FRUITS, VEGETABLES, AND CUT FLOWERS UNDER JAPANESE BEETLE QUARANTINE

Pursuant to the authority vested in the Chief of the Bureau of Entomology and Plant Quarantine by § 301.48 (a) of the regulations supplemental to the Japanese beetle quarantine (7 CFR § 301.48-1 et seq.; 13 F. R. 2250), the beginning of this year's period of adult flight of the Japanese beetle and areas in which seasonal requirements shall be effective have been determined on the basis of anticipated heavy seasonal occurrence of the adult, administrative instructions to appear as § 301.48-4a in Title 7, Code of Federal Regulations, are hereby issued as follows:

§ 301.48-4a *Administrative instructions designating areas and effective dates of seasonal regulation of cut flowers, fruits and vegetables.* It is hereby ordered that for the 1948 season the application of the requirements of §§ 301.48-4 (a) and 301.48-5 of the Japanese beetle regulations (7 CFR §§ 301.48-4 (a) and 301.48-5; 13 F. R. 2250) to unprocessed, fresh, cut flowers when moved in bulk, and fresh fruits and vegetables of all kinds when shipped by refrigerator car or motortruck only, shall begin, in the respective areas listed, on the following dates:

(a) At 12:01 a. m., June 7, 1948, in the following areas:

*Virginia.* Counties of Accomac, Norfolk, Northampton, and Princess Anne; magisterial district of Sleepy Hole in Nansemond County; and cities of Norfolk, Portsmouth, South Norfolk and Suffolk.

(b) At 12:01 a. m., June 21, 1948, in the following areas:

*Delaware.* The entire State.  
*District of Columbia.* The entire District.  
*Maryland.* The entire State, except the counties of Allegany, Calvert, Charles, Garrett, St. Marys and Washington.  
*New Jersey.* The entire State.  
*New York.* County of Nassau; the towns of Babylon and Huntington, in Suffolk County.  
*Pennsylvania.* Counties of Adams, Berks, Bucks, Chester, Cumberland, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia and York.  
*Virginia.* Counties of Arlington, Fairfax, Loudoun, and the city of Alexandria.

These requirements shall remain in effect during the current growing season until due notice of their discontinuance shall have been given. (Sec. 8, 37 Stat. 318, as amended; 7 U. S. C. 161)

Regulation of the movement of cut flowers, fruits and vegetables as provided herein must become effective immediately upon the heavy flight of the adult Japanese beetle if the spread of this insect to uninfested States is to be prevented. Emergence of adults and beginning of such flight fluctuate with weather and other environmental factors, and are unpredictable within narrow time limits. It is anticipated that this season's heavy flight will occur by the dates specified in these administrative

instructions. For the reasons stated, it is found upon good cause, pursuant to the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238), that notice and public procedure on these administrative instructions are unnecessary, impracticable, and contrary to the public interest, and good cause is found for issuing these instructions effective less than thirty days after their publication in the FEDERAL REGISTER.

Should field conditions in other sections of the regulated area disclose additional areas in which adult Japanese beetles are abundant and where seasonal requirements should be effective, these administrative instructions will be amended to include such areas. Pending this action, under authority of § 301.48-9, inspection will be made of fruits and vegetables moving therefrom to nonregulated area via refrigerator car or motor truck. When such shipments are found to involve danger of dissemination of Japanese beetles to noninfested localities, treatment of such shipments will be required.

Done at Washington, D. C., this 26th day of May 1948.

[SEAL] AVERY S. HOYT,  
*Acting Chief, Bureau of  
 Entomology and Plant Quarantine.*

[F. R. Doc. 48-5125; Filed, June 8, 1948;  
 8:53 a. m.]

## TITLE 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Bureau of Animal Industry, Department of Agriculture

#### Subchapter A—Meat Inspection Regulations

##### MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in the Secretary of Agriculture by the Meat Inspection Act, as amended (21 U. S. C. and Supp. 71-91 and 97-97d), the so-called Horse Meat Act (21 U. S. C. 96) and section 306 of the Tariff Act of 1930 (19 U. S. C. 1306) and after public notice (13 F. R. 2264) and due consideration of all relevant material presented pursuant thereto, the regulations in 9 CFR, 1945 Supp., Chapter I, Subchapter 3, as amended and reassigned to Title 9, Chapter I, Subchapter A (9 CFR, 1946 Supp.), are hereby amended as follows:

#### PART 2—SCOPE OF INSPECTION

Section 2.4 is deleted from the regulations.

#### PART 4—APPLICATIONS FOR INSPECTION OR EXEMPTION; RETAIL BUTCHERS, RETAIL DEALERS, AND FARMERS

Section 4.1 is amended to read as follows:

§ 4.1 *Application for inspection or exemption.* (a) The proprietor or operator of each establishment of the kind specified in § 2.1 of this subchapter shall make application to the chief of division for inspection or for exemption from inspection.

(b) The proprietor or operator of each establishment of the kind specified in § 2.3 of this subchapter shall make appli-

cation to the chief of division for inspection.

(c) Every application under this section shall be made on a form furnished by the division, Washington, D. C. In cases of change of ownership or change of location, a new application shall be made.

#### PART 8—SANITATION

Section 8.3 (d) is amended to read as follows:

§ 8.3 *Establishments; sanitary conditions; requirements.* \* \* \*

(d) (1) The water supply shall be ample, clean, and potable, with adequate facilities for its distribution in the plant and its protection against contamination and pollution. Every establishment shall make known and, whenever required, shall afford opportunity for inspection of the source of its water supply, the storage facilities, and the distribution system. Equipment using potable water shall be so installed as to prevent back-siphonage into the potable water system. Nonpotable water is permitted only in those parts of official establishments where no edible product is handled or prepared, and then only for limited purposes such as on ammonia condensers not connected with the potable water supply, in vapor lines serving inedible product rendering tanks, in connection with equipment used for hashing and washing inedible products preparatory to tanking, and in sewer lines for moving heavy solids in the sewage. Nonpotable water is not permitted for washing floors, areas, or equipment involved in trucking materials to and from edible products departments, nor is it permitted in hog scalding vats, dehairing machines, or vapor lines serving edible product rendering equipment, or for clean-up of shackling pens, bleeding areas, or runways within the slaughtering department. In all cases, nonpotable water lines shall be clearly identified and shall not be cross-connected with the potable water supply unless this is necessary for fire protection and such connection is of a type with an adequate break to assure against accidental contamination, and is approved by local authorities and by the chief of division.

(2) Inspectors in charge may permit the reuse of water in vapor lines leading from deodorizers used in the preparation of lard and similar edible product and in equipment used for the chilling of canned product after retorting, provided the reuse is for the identical original purpose and the following precautions are taken to protect the water that is reused:

(i) All pipe lines, reservoirs, tanks, cooling towers, and like equipment employed in handling the reused water are so constructed and installed as to facilitate their cleaning and inspection.

(ii) Complete draining and disposal of the reused water, effective cleaning of the equipment, and renewal with fresh potable water is accomplished at such intervals as may be necessary to assure an acceptable supply of water for the purpose intended.

(iii) Effective chlorination (not less than approximately 1 part per million of residual chlorine at any point within



the cooling system) of the reused water utilized for cooling canned product is maintained but with the understanding that chlorination alone is not to be relied upon entirely or to be accepted in lieu of the requirements listed in subdivisions (i) and (ii) of this subparagraph.

(3) An ample supply of water at not less than 180° F. shall be furnished and used for the cleaning of inspection equipment and other equipment, floors, walls, and the like, which are subject to contamination by the dressing or handling of diseased carcasses, their viscera and parts. Whenever necessary to determine compliance with this requirement, conveniently located thermometers shall be installed to show the temperature of the water at the point of use.

(4) Hot water for cleaning rooms and equipment other than those mentioned in subparagraph (3) of this paragraph shall be delivered under pressure to sufficient convenient outlets and shall be of such temperature as to accomplish a thorough cleanup.

#### PART 14—TANKING AND DENATURING CONDEMNED CARCASSES AND PARTS

Section 14.5 is amended to read as follows:

§ 14.5 *Specimens for educational, research, and other purposes; permits for, required.* (a) Specimens of diseased, condemned, and inedible materials, including pig or lamb embryos and specimens of animal parasites, may be released for educational purposes by the inspector in charge; *Provided*, That the party desiring such specimens makes a written application for same, stating the use to be made of them; and *Provided further*, That the applicant arranges with and receives permission from the official establishment to obtain the specimens. If the application is satisfactory to the inspector in charge, he shall issue a permit authorizing the removal of the specimens. Such permits shall be numbered and issued for not beyond the then current calendar year.

(b) Specimens of diseased, condemned, and inedible materials, including pig or lamb embryos and specimens of animal parasites, may be released for research and other purposes when authorized by the chief of division; *Provided*, That the applicant arranges with and receives permission from the official establishment to obtain the specimens.

(c) The collection and handling of the specimens referred to in paragraphs (a) and (b) of this section shall be at such time and place and in such a manner as not to interfere with the inspection or to cause any objectionable condition.

#### PART 17—LABELING

1. Section 17.1 (a) is amended to read as follows:

§ 17.1 *Labeling required; supervision by division employee.* (a) When, in an official establishment, any inspected and passed product is placed or packed in any can, pot, tin, canvas, or other receptacle or covering constituting an immediate or true container, there shall be affixed to

such container or covering a label as hereinafter described in this part: *Provided*, That plain wrappings for fresh meat, such as dressed carcasses and primal parts thereof, which are used solely to protect the product against soiling or excessive drying during transportation or storage need not bear a label: *Provided further*, That uncolored transparent coverings, such as cellophane, which bear no printed or graphic matter and which enclose any unpackaged or packaged product bearing all required markings need not bear a label if the required markings are clearly legible through such coverings: *Provided further*, That animal and transparent artificial casings bearing no marks or printed features other than those required under Part 16 of this subchapter need not bear additional labeling: *And provided further*, That stockinettes used as "operative devices," such as those applied to cured meats in preparation for smoking, need not bear labels whether or not such stockinettes are removed following completion of the operations for which they were applied.

2. Section 17.8 (c) (39) is amended to read as follows:

§ 17.8 *False or deceptive names; established trade names; false indication of origin or quantity; use of names of countries, States, etc.; "farm," "country," etc., qualified by word "style"; labeling of lard, oleo oil, oleo stearin, etc.* (c) \* \* \*

(39) Potted meat food product and deviled meat food product shall not contain cereal, vegetable flour, dried skim milk, or similar substance. The amount of water added to potted meat food product and deviled meat food product shall be limited to that necessary to replace moisture lost during processing.

3. Section 17.8 (c) is amended by adding thereto new subparagraphs designated as § 17.8 (c) (42) and § 17.8 (c) (43), respectively, reading as follows:

(42) Canned product labeled "Corned Beef" and canned product labeled "Roast Beef Parboiled and Steam Roasted" shall be prepared so that the weight of the finished product shall not exceed 70% by weight of the fresh beef, plus salt and flavoring material included in the product.

(43) When monoglycerides and diglycerides are added to rendered animal fat or a combination of such fat and vegetable fat, there shall appear on the label in a prominent manner and contiguous to the name of the product a statement such as "With Monoglycerides and Diglycerides", "Monoglycerides and Diglycerides Added", "With Diglycerides and Monoglycerides" or "Diglycerides and Monoglycerides Added" as the case may be.

4. Section 17.9 (b) is amended to read as follows:

§ 17.9 *Labeling product prepared with artificial coloring, artificial flavoring, or preservative.* \* \* \*

(b) When product is placed in casings to which artificial coloring is applied, as permitted under this subchapter, there shall appear on the label, in a prominent

manner and contiguous to the name of the product, the words "artificially colored": *Provided*, That if the casing is removed from the product at the establishment and there is evidence of the artificial coloring on the surface of the product, there shall appear on the label in a prominent manner and contiguous to the name of the product, the words "artificially colored": *Provided further*, That when the casing is colored prior to its use as a covering for product, there shall appear on the label in a prominent manner and contiguous to the name of the product the words "casing colored": but *Provided further*, That colored opaque artificial casings need not be marked with the words "casing colored."

#### PART 18—REINSPECTION AND PREPARATION OF PRODUCTS

1. Section 18.6 (a) (8) is amended to read as follows:

§ 18.6 *Processes to be supervised; containers, equipment, processes of manufacture to be clean and sanitary; substances to be clean and wholesome.* (a) \* \* \*

(8) The fermenting of intestines is not permitted in official establishments. The stripping and sliming of intestines shall be performed in a clean manner.

2. Section 18.7 (c) is amended to read as follows:

§ 18.7 *Use in preparation of meat food products of chemicals, preservatives, coloring matter; addition of cereal, vegetable starch, dried skim milk, water, etc., substances necessary for refining.* \* \* \*

(c) Monoglycerides and diglycerides may be added to rendered animal fat or a combination of such fat and vegetable fat with appropriate declaration as required in Part 17 of this subchapter.

3. Section 18.7 (d) is amended by substituting a semicolon for the period at the end of said paragraph and adding thereafter the word "or" and new subparagraphs designated as (7) and (8), respectively, reading as follows:

(7) Propyl gallate not to exceed  $\frac{1}{100}$  of 1 percent; or

(8) Propyl gallate not to exceed  $\frac{1}{100}$  of 1 percent in combination with not more than  $\frac{5}{1000}$  of 1 percent of citric acid.

4. Section 18.7 is amended by adding thereto new paragraphs designated as (n) and (o), respectively, reading as follows:

(n) The preparation of a ham for canning shall not result in an increase in weight of more than 8% over the weight of the fresh uncured ham; that is, the weight of the boneless cured ham at the time of canning, plus the weight of the skin, bones, fat, and trimmings removed from the ham, shall not exceed 108% of the weight of the fresh uncured ham.

(o) For the purpose of preventing coagulation citric acid or sodium citrate with or without water, may be added to fresh beef blood in an amount not to exceed  $\frac{3}{40}$  of 1% of the total mixture. When water is used to make a solution of the citric acid or sodium citrate added



to the beef blood, not more than two parts of water to one part of citric acid or sodium citrate shall be used.

5. Section 18.10 (b) is amended to read as follows:

§ 18.10 *Prescribed treatment of pork and products containing pork to destroy trichinae.* \* \* \*

(b) Products containing pork muscle tissue (including hearts, pork stomachs and pork livers) or the pork muscle tissue which forms an ingredient of such products, including, or of the character of, those hereinafter named, are classed as articles which shall be effectively heated, refrigerated, or cured at a Federally inspected establishment to destroy any possible live trichinae: Bologna; frankfurts; viennas; smoked sausage; knoblauch sausage; mortadella; all forms of summer or dried sausage, including mettwurst; cooked loaves; roasted, baked, boiled, or cooked ham, pork shoulder, or pork shoulder picnic; Italian-style ham; Westphalia-style ham; cured meat rolls; capocollo (capicola, capicola); coppa; fresh or cured boneless pork shoulder butts, hams, loins, shoulders, picnics, and similar pork cuts, in casings or other containers in which ready-to-eat delicatessen articles are customarily enclosed; cured boneless pork loin; boneless back bacon (Canadian-style bacon); pork cuts such as hams, shoulders, picnics, and butts which are subjected to smoking at sufficiently high temperatures to impart a partially cooked appearance to the meat (ordinarily, such cuts fall in this class when heated to an internal temperature above 120° F.).

6. Section 18.12 (c) is amended to read as follows:

§ 18.12 *Preparation of dog food or similar uninspected article at official establishments; edible products department; inedible products department; denaturing.* \* \* \*

(c) Dog food or other animal food prepared, in whole or in part, from materials derived from cattle, sheep, swine, goats, or horses, shall be distinguished from articles of human food, so as to avoid the distribution of such animal food as human food. To accomplish this, labeling of hermetically sealed, retort processed, conventional retail size containers, as, for example, "dog food" will be considered sufficient. If not in such containers the product must not only be properly identified, but it must be of such character or so treated (denatured or decharacterized) as to be readily distinguishable from an article of human food. Dog food shall not be represented as being a human food.

7. Part 18 is amended by adding thereto a new section designated as § 18.17 reading as follows:

§ 18.17 *Product for educational uses, laboratory examination, and other purposes.* When authorized by the chief of division, product of special type or kind may be shipped or transported from official establishments for educational uses, laboratory examination, and other purposes.

#### PART 24—EXPORT STAMPS AND CERTIFICATES

1. Section 24.2 (a) is amended to read as follows:

§ 24.2 *Export stamps and certificates; instructions concerning issuance.* \* \* \*

(a) Upon application of the exporter, the inspector in charge is authorized to issue certificates for shipments of inspected and passed product to any foreign country. Certificates should be issued at the time the articles leave the establishment; if not issued at that time, they may be issued later only after identification and reinspection of the products.

2. Section 24.2 (e) is amended to read as follows:

(e) The duplicate of the certificate shall be delivered to the shipper and by him delivered to the agent of the railroad or other carrier which transports the consignment from the United States otherwise than by water, or to the chief officer of the vessel on which the export shipment is made and without which no clearance shall be given to any vessel having aboard any product destined to countries listed in paragraph 24.3 (a), and shall be used only by these agencies and for the purpose of effecting the transportation of the consignment certified. The chief officer of the vessel shall file such duplicate with the customs officer at the time of filing the master's manifest or the supplemental manifest.

3. Section 24.3 (j) is amended to read as follows:

§ 24.3 *Export transportation without certificate prohibited; special procedure or requirements as to certification of product for export to certain countries.* \* \* \*

(j) *Mexico.* Regular export certificates shall be issued in quintuplicate for product destined to Mexico.

4. Section 24.4 (a) (3) is amended to read as follows:

§ 24.4 *Special requirements as to products for export to countries named in this section—(a) Canada.* \* \* \*

(3) Foreign products originating in countries other than Argentina, Australia, Brazil, Denmark, Eire, France, Great Britain, New Zealand, Northern Ireland, Paraguay, Sweden, Switzerland, Union of South Africa, Uruguay, and the United States, are not admitted into the Dominion of Canada, and notwithstanding the fact that products are admitted into the United States from countries other than those above enumerated such products from such other countries are not acceptable in Canada even though accompanied with export certificates issued in the United States.

5. Section 24.4 (a) (4) (ii) is amended to read as follows:

(ii) Preservatives other than common salt, sugar, saltpeter, wood smoke, vinegar, acetic acid, spices, alcohol, refined sodium nitrate, and refined sodium nitrite (not to exceed 200 parts per million in the finished product), or coloring matter, shall not be used in or upon meat, meat by-products, or any preparation of either of them. Benzoate of soda shall

not be used in or upon meat or meat food products.

6. Section 24.4 (a) (4) (iii) is amended to read as follows:

(iii) Meat shall be the clean, sound, properly dressed flesh of one or more animals healthy at the time of slaughter and shall include the heart, tongue, diaphragm, and oesophagus in addition to the skeletal musculature with attendant tissues.

7. The first sentence of § 24.4 (a) (4) (vii) is amended to read as follows:

(vii) Containers and wrappers in contact with food products shall contain on their surfaces in contact with food products, no lead, antimony, arsenic, zinc, or copper, or any compounds thereof or any other poisonous or injurious substances. \* \* \*

8. Section 24.4 (a) (4) (ix) is amended to read as follows:

(ix) Sausage, sausage pudding, etc., shall be a comminuted meat or a mixture of such meats, either fresh, salted, pickled or smoked, with added salt and spices, and with or without the addition of edible animal fats, cereals, beef tripe, liver, blood or sugar, and with or without subsequent smoking. The finished product shall not contain a larger proportion of water than the meats from which it is prepared contain when in their fresh condition and not more than five (5) percent by weight of cereal, and if it contains any cereal the proportion of water shall not exceed sixty (60) percent by weight. If it bears a name descriptive of kind, composition or origin, it shall correspond to such descriptive name. All animal tissues used as containers, such as casings, stomachs, etc., shall be clean and sound and impart to the contents no substance other than salt.

9. Section 24.4 (a) (4) (xiii) is amended to read as follows:

(xiii) Potted meat shall be comminuted and cooked meat, with or without cereal, salt, and spices, and enclosed in suitable containers closed hermetically or otherwise. Cereals when present must not exceed five (5) percent by weight.

10. Section 24.4 (a) (4) (xiv) is amended to read as follows:

(xiv) Meat loaf shall be a mixture of comminuted cooked meat, with or without cereal, salt, spices, milk, or eggs, pressed into a loaf. If it bears a descriptive name it shall correspond thereto. Meat loaf shall not contain more than five (5) percent of cereals.

11. Section 24.4 (a) (4) (xxi) is amended to read as follows:

(xxi) Gelatin (edible gelatin) shall be the purified, dried, inodorous product of the hydrolysis by treatment with boiling water, of certain tissues, as skin, ligaments, and bones, from sound animals, and shall contain not more than two and six-tenths (2.6) percent of ash and not less than eighty-two (82) percent of ash free solids.

12. Present § 24.4 (a) (4) (xxv) and § 24.4 (a) (4) (xxvi) are renumbered, respectively, as § 24.4 (a) (4) (xxvi) and



§ 24.4 (a) (4) (xxvii) and § 24.4 (a) (4) is amended by adding thereto a new subdivision designated as § 24.4 (a) (4) (xxv), reading as follows:

(xxv) Processed lard shall be the food product made by adding to lard a small proportion of a stabilizer consisting of one or more of the following ingredients: gum guaiacum; vegetable oil, containing tocopherols; lecithin; and citric acid, tartaric acid, ascorbic acid. The proportion of such stabilizers in processed lard, singly or in combination, shall not exceed two-tenths of one (0.2) percent by weight of the finished product. The label or marking of every package or container in which processed lard is offered for sale shall display the following statement in immediate conjunction with the name of the product, "Contains not more than 0.2 percent of \* \* \*" in bold type not less than one-quarter of the size of that used in the name of the product.

#### PART 25—TRANSPORTATION

Section 25.17 (a) (2) is amended to read as follows:

§ 25.17 *Provisions in this part do not apply to specimens for laboratory examination, etc., or to inedible articles not having physical characteristics of edible products.* (a) \* \* \*

(2) To material released for educational, research, and other purposes under § 14.5 of this subchapter and to material released for educational uses, laboratory examination, and other purposes under § 18.17 of this subchapter.

#### PART 29—INSPECTION AND HANDLING OF HORSE MEAT AND PRODUCTS THEREOF

Section 29.5 is amended to read as follows:

§ 29.5 *Horse meat or meat food products thereof; domestic meat labels.* The domestic meat labels for horse meat or meat food products thereof shall be printed with black ink on light green paper of good quality, shall be 2¾ by 4 inches in size and shall be in form and substance as illustrated below, except that the name and address of the establishment, or the name only, may also be printed on the label, at the bottom thereof:

Domestic Horse Meat or Horse-Meat Product	ESTABLISHMENT E-38
	The horse meat or meat food product thereof contained herein has been U. S. inspected and passed by Department of Agriculture.

The foregoing amendments shall be effective 30 days after the date of their publication in the FEDERAL REGISTER.

The foregoing amendments are issued to assure the maintenance of sanitary conditions in plants operating under Federal inspection and the operation of these plants in such a way that products produced thereat are sound, healthful, wholesome, and fit for human food, to

permit the release from such establishments and the shipment in interstate commerce, of diseased, condemned, and inedible products for research and other purposes under specified restrictions, to regulate the labeling and methods of preparation of various products to prevent deception of the public, to expedite and control exports of products to Mexico by providing for issuance of export certificates therefor, to expedite and control domestic shipments of horse meat by prescribing the form of the domestic horse meat label, to conform the regulations relating to products exported from the United States to Canada to the corresponding Canadian regulations applicable to products imported into Canada, and to make numerous formal changes for purposes of clarification in the regulations heretofore effective.

(34 Stat. 1260, as amended, 41 Stat. 241, sec. 306, 46 Stat. 689; 21 U. S. C. 71-91, 97-97d, 96, 19 U. S. C. 1306)

Notice of proposed rule making was published in accordance with section 4 (a) of the Administrative Procedure Act (5 U. S. C. 1003 (a)) with respect to all the foregoing amendments except the deletion of § 2.4 of the regulations. As legal authority for § 2.4 has terminated it is found upon good cause that public procedure with reference to the deletion of that section is unnecessary.

Done at Washington, D. C., this 3d day of June 1948. Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,  
Secretary of Agriculture.

[F. R. Doc. 48-5099; Filed, June 8, 1948; 8:48 a. m.]

## TITLE 10—ARMY

### Chapter VIII—Supplies and Equipment

#### Subchapter A—Procurement

##### PART 809—LABOR

#### PART 810—INTERBRANCH AND INTERDEPARTMENTAL PROCUREMENT

##### MISCELLANEOUS AMENDMENTS

1. In § 809.1202-34, paragraph (a) is rescinded and the following substituted therefor:

§ 809.1202-34 *Uniform and clothing industry*—(a) *Suit and coat branch.* The suit and coat branch of the uniform and clothing industry is defined to be that industry which manufactures men's civilian suits and overcoats; tailored-to-measure uniforms, including the pants; uniform overcoats and uniform coats; and tailored short jackets designed to take the place of regular Army issue coats, e. g., the "Eisenhower" jackets. Expressly excluded from this definition are shirts, single pants regardless of material, outdoor jackets, leather and sheep-lined jackets, work clothing, and washable service apparel.

*Date effective.* May 8, 1948.

*Wage.* 85 cents an hour or \$34.00 per week of 40 hours, arrived at either upon a time or piece work basis; and, for "auxiliary workers," 65 cents an hour

or \$26.00 per week of 40 hours, arrived at either upon a time or piece work basis. "Auxiliary workers" shall include those employees engaged in the following occupations as defined in regulations of the Secretary of Labor: Position marking, shade and size numbering, bundle tying, bundle ticketing, matching and pairing, basting pulling, hand-trimming, cleaning, turning, floor boys and girls, porter, examiner's helper. Learners may be employed in the nonauxiliary occupations of machine operating (except cutting), pressing and hand-sewing for not longer than 240 hours at a wage rate of not less than 65 cents an hour, unless experienced workers in the same occupation are paid on a piece rate basis amounting to earnings in excess of 65 cents an hour in which event learners must be paid the same piece rates.

2. In § 810.205-2, item 514 is deleted, a footnote 2 is placed by item 504, and the following footnote is added to the bottom of the page:

\* Item No. 504 is an envelope of identical size as, but a slightly heavier paper than, item No. 514. The use of item No. 514 is permitted until existing stocks are exhausted, after which replenishment is not authorized but item No. 504 may be ordered in lieu thereof.

[Proc. Cir. 12, May 14, 1948] (Sec. 1 (a), (b), 54 Stat. 712, 55 Stat. 838; 41 U. S. C. prec. Sec. 1 note, 50 U. S. C. App. 601-622; E. O. 9001, Dec. 27, 1941, 3 CFR, Cum. Supp.)

[SEAL] EDWARD F. WITSELL,  
Major General,  
The Adjutant General.

[F. R. Doc. 48-5079; Filed, June 8, 1948; 8:45 a. m.]

#### Subchapter D—Armed Services Procurement Regulation

##### ADDITION OF SUBCHAPTER

Chapter VIII is amended by addition of a Subchapter D, containing the Armed Services Procurement Regulation, which became effective May 19, 1948. Subchapter D will consist of Parts 851 to 864, inclusive. This issue of the FEDERAL REGISTER contains only Parts 851 through 853. Parts 854 through 864 will appear in subsequent issues of the FEDERAL REGISTER. The provisions of Subchapter D will govern in case of any conflict with any regulations appearing in Subchapters A, B, or C of this chapter.

*Foreword.* The Armed Services Procurement Regulation, hereby issued by the Departments of the Army, Navy, and Air Force, appreciably changes the procurement policies and practices of the three Departments under the First War Powers Act, and provides for new procurement policies and practices, on and after May 19, 1948, under the Armed Services Procurement Act, Public Law 413, 80th Congress.

When the President signed the Armed Services Procurement Act on February 19, 1948, he wrote to the Secretary of Defense as follows:

The act states the basic policies of the Government with respect to procurement by



the Armed Services. It declares that a fair proportion of all procurements shall be placed with small business concerns. It also states that all purchases and contracts for supplies and services shall be made by advertising, except under circumstances specified in the act where exceptions to this general policy may be made.

This bill grants unprecedented freedom from specific procurement restrictions during peacetime. That freedom is given to permit the flexibility and latitude needed in present day national defense activities. The basic need, however, remains to assure favorable price and adequate service to the Government. To the degree that restrictions have been diminished, therefore, responsibility upon the Defense Establishment has been increased. There is danger that the natural desire for flexibility and speed in procurement will lead to excessive placement of contracts by negotiation and undue reliance upon large concerns, and this must not occur.

For these reasons, I am asking you to specify detailed standards to guide your procurement officers concerning the placing of business with small concerns and the circumstances under which they may waive the general policy of advertising for bids. It is of great importance in procurement matters to establish standards and definitions to guide all personnel who have authority to place contracts. Otherwise, differences in interpretation and policies may result in imprudent contracts and give rise to doubts about the wisdom of this new procurement system.

It is believed that the Armed Services Procurement Regulation which is now being issued carries out on a policy level the instructions contained in the President's letter. All procurement personnel are enjoined to follow strictly the standards and requirements set forth in this regulation as well as in such implementing procedures as will be issued under it from time to time by each respective Department.

GORDON GRAY,

*The Assistant Secretary of the Army.*

M. E. ANDREWS,

*Assistant Secretary of the Navy.*

A. S. BARROWS,

*Under Secretary of the Air Force.*

#### Parts

- 851 General provisions.
- 852 Procurement by formal advertising.
- 853 Procurement by negotiation.

#### PART 851—GENERAL PROVISIONS

##### SUBPART A—INTRODUCTION

- Sec.
- 851.100 Scope of subpart.
- 851.101 Purpose of subchapter.
- 851.102 Applicability of subchapter.
- 851.103 Effective date of subchapter.
- 851.104 Arrangement of subchapter.
- 851.104-1 General plan.
- 851.104-2 Numbering.
- 851.104-3 Cross references.
- 851.104-4 Citation.
- 851.105 Amendment of subchapter.
- 851.106 Department procedures under subchapter.
- 851.107 Procuring activity instructions under subchapter.
- 851.108 Deviations from subchapter.
- 851.109 Administration and interpretation.
- 851.110 Periodic reports of purchases and contracts.
- 851.111 Reports of suspected criminal conduct.

##### SUBPART B—DEFINITIONS OF TERMS

- 851.201 Definitions.
- 851.201-1 Department.

- Sec.
- 851.201-2 Secretary.
- 851.201-3 Procuring activity.
- 851.201-4 Head of a procuring activity.
- 851.201-5 Contracting Officer.
- 851.201-6 Contracts.
- 851.201-7 Procurement.
- 851.201-8 Supplies.
- 851.201-9 Sources of supplies.

##### SUBPART C—BASIC POLICIES

- 851.300 Scope of subpart.\*
- 851.301 Methods of procurement.
- 851.302 Sources of supplies.
- 851.302-1 Government agencies.
- 851.302-2 Sources outside the Government.
- 851.302-3 Small business concerns.
- 851.302-4 Foreign purchases.
- 851.303 Ineligible contractors and disqualified bidders.
- 851.303-1 Additions to and removals from the list of ineligible contractors and disqualified bidders.
- 851.303-2 Exchange of lists.
- 851.304 Types of contracts.
- 851.305 Specifications.

##### SUBPART D—PROCUREMENT RESPONSIBILITY AND AUTHORITY

- 851.400 Scope of subpart.
- 851.401 Responsibility of each procuring activity.
- 851.402 General authority of contracting officers.
- 851.403 Requirements to be met before entering into contracts.
- 851.404 Special requirements to be met before entering into negotiated contracts.

AUTHORITY: §§ 851.100 to 851.404, inclusive, issued under sec. 1 (a), (b), 54 Stat. 712, 55 Stat. 838, Pub. Law 413, 80th Cong.; 41 U. S. C. preceding sec. 1 note, 50 U. S. C. App. 601-622; E. O. 9001, Dec. 27, 1941, 3 CFR Cum. Supp.

#### PART 851—GENERAL PROVISIONS

##### SUBPART A—INTRODUCTION

§ 851.100 *Scope of subpart.* This subpart sets forth (a) introductory information pertaining to this subchapter (its purpose, applicability, effective date, and arrangement) and (b) instructions for amending, implementing, and deviating from this subchapter.

§ 851.101 *Purpose of subchapter.* This subchapter, issued by the Secretaries of the Army, Navy, and Air Force, establishes for the Departments of the Army, Navy, and Air Force uniform policies relating to the procurement of supplies and services under the authority of the Armed Services Procurement Act of 1947, Public Law 413, 80th Congress, (hereinafter referred to as "the act"), or under other statutory authorization.

§ 851.102 *Applicability of subchapter.* This subchapter shall apply to all purchases and contracts made by any Department for the procurement of supplies or services which obligate appropriated funds (including available contract authorizations) and which are executed as of a date on or after the effective date of this subchapter. This subchapter shall not apply (a) to any contract formalizing a preliminary contractual agreement, such as a letter contract or a letter of intent, which itself was made prior to the effective date of this subchapter; or (b) to any amendment, modification, or supplemental agreement with respect to any contract executed as of a date prior to the effective date of

this subchapter: *Provided*, That this subchapter shall apply to any such amendment, modification, or supplemental agreement which provides for the new or additional procurement of supplies or services. Each such contract shall contain a statement of the statutory authorization under which the contract is made, and in the case of negotiated contracts shall cite or refer to either the appropriate paragraph of section 2 of the act (together with any such supporting statement or certificate as is required by the provisions of Part 853 of this subchapter) or such other statutory authorization as may apply. Rules, regulations, and directives of any Department or Departments not in conflict with this subchapter, as from time to time amended, shall remain in full force and effect. This subchapter is not intended to cover detailed procurement procedures or instructions of the respective Departments and their procuring activities, all of which procedures and instructions may be prescribed as provided in §§ 851.106 and 851.107.

§ 851.103 *Effective date of subchapter.* This subchapter shall be effective on and after May 19, 1948.

§ 851.104 *Arrangement of subchapter.*

§ 851.104-1 *General plan.* This subchapter is intended to cover broad policies with respect to procurement. The subchapter is divided into parts, each one of which deals with a separate aspect of procurement; and each part is further subdivided into subparts and sections.

§ 851.104-2 *Numbering (not applicable to document as printed herein).* The numbering of individual paragraphs is not necessarily consecutive, and is designed to permit subsequent insertion of additional paragraphs within the appropriate section and part. The number of a particular paragraph indicates the section and part where it is set forth, and also indicates whether it is subordinate to a preceding paragraph. The first portion of a paragraph number indicates the section, and the first digit of the second portion (preceded by a dash) indicates the part, in which the particular paragraph is set forth; thus, paragraph 1-104 indicates Section I, Part 1, paragraph 4. Where the number of a paragraph ends with a digit preceded by a decimal point (as 1-104.2), this indicates that it is part of the general subject covered by the basic paragraph (as 1-104). The scope of any section, when given, will be set forth in a separate introductory paragraph the second portion of which number will be 000 (as 1-000); and the scope of any part, when given, will be set forth in a separate paragraph at the beginning of that part but with the second portion of its number being 100, 200, 300, etc., depending on the number of the part (for example, paragraph 1-100 sets forth the scope of Part 1 of Section I).

NOTE: In the document, as printed herein, "paragraph", as used in § 851.104-2, appears as a code section, "section" as a code part, and "part" as a code subpart. Thus, Section I of the original document appears as Part 851, Part 1 of Section I as Subpart A of Part 851, and paragraph 1-104.2 as § 851.104-2. The original document contains fourteen



"sections", codified herein as Parts 851 to 864, inclusive.

§ 851.104-3 *Cross references.* Unless specifically stated otherwise, cross references in this subchapter indicate sections, subparts, or parts of this subchapter.

§ 851.104-4 *Citation.* This subchapter shall be referred to as the Armed Services Procurement Regulation, and any paragraph may be cited as ASPR followed by the paragraph number. Thus, this paragraph would be cited as ASPR 1-104.4.

§ 851.105 *Amendment of subchapter.* This subchapter may be amended from time to time by joint action of the Secretaries of the three Departments. Recommendations for amendments shall be submitted within each Department to the Secretary thereof, in accordance with procedures prescribed by that Department. Unless otherwise specifically provided in any amendment, compliance therewith shall not be mandatory until thirty days after the date of its issuance, although compliance shall be authorized from such date.

§ 851.106 *Department procedures under subchapter.* The Secretary of any Department may implement this subchapter by prescribing for his Department detailed procurement procedures which are not inconsistent with this subchapter. Copies of such procedures shall be forwarded to the other Departments.

§ 851.107 *Procuring activity instructions under subchapter.* The head of any procuring activity of any Department may prescribe for his activity detailed operating instructions which are not inconsistent with this subchapter or with the procurement procedures prescribed for that Department. Copies of such operating instructions will be distributed in accordance with procedures prescribed by each respective Department.

§ 851.108 *Deviations from subchapter.* Deviations from the requirements of this subchapter shall be made only in accordance with procedures prescribed by each respective Department, and then only in cases where special circumstances justify the deviation. A report of any such deviation shall be furnished to the other Departments.

§ 851.109 *Administration and interpretation.* All procedures, instructions, deviations, and interpretations with respect to this subchapter shall be approved in accordance with procedures prescribed by each respective Department.

§ 851.110 *Periodic reports of purchases and contracts.* The following periodic reports of purchases and contracts shall be made by each Department in accordance with the specified provisions of this subchapter and in the form and manner to be prescribed by each respective Department:

(a) In accordance with the provisions of § 853.302-3 of this subchapter, an annual report of the total value of all contracts placed by each Department during

each fiscal year with small business concerns;

(b) In accordance with the provisions of § 853.103 of this subchapter, an annual report of the total value of all contracts negotiated by each Department during each fiscal year under each of the circumstances permitting negotiation enumerated in Subpart B of Part 853 of this subchapter;

(c) In accordance with the provisions of § 853.211-4 of this subchapter, a semi-annual report of all research and development contracts negotiated by each Department; and

(d) In accordance with the provisions of § 853.216-4 of this subchapter, a semi-annual report of all contracts negotiated by each Department in the interest of national defense or industrial mobilization.

§ 851.111 *Reports of suspected criminal conduct.* Reports of possible violations of Federal criminal statutes relating to procurement shall be made by each respective Department in accordance with procedures prescribed by that Department.

#### SUBPART B—DEFINITIONS OF TERMS

§ 851.201 *Definitions.* As used throughout this subchapter, the following terms shall have the meanings set forth below:

§ 851.201-1 *Department.* The term "Department" includes the Department of the Army, the Department of the Navy, and the Department of the Air Force.

§ 851.201-2 *Secretary.* The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of any Department.

§ 851.201-3 *Procuring activity.* The term "procuring activity" includes, for the Army, the technical services, the army areas, the National Guard Bureau, the Military District of Washington, and the overseas commands; for the Navy, each Bureau of the Navy Department, the Office of Naval Research, the Aviation Supply Office, and the United States Marine Corps; for the Air Force, the Air Materiel Command, and the overseas commands. It also includes the Armed Services Medical Procurement Agency, the Armed Services Petroleum Purchasing Agency, and any other procuring activity hereafter established. The number and designation of particular procuring activities of any Department may be changed by directive of the Secretary of that Department.

§ 851.201-4 *Head of a procuring activity.* The term "head of a procuring activity" includes, for the Army, the Chiefs of the technical services, the Army Commanders, the Chief of the National Guard Bureau, the Commanding General of the Military District of Washington, and the Commanding Generals of the Overseas Commands; for the Navy, the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, and the Commandant of the United States Marine Corps; for the Air Force, the Commanding General of the Air Materiel Command, and the Commanding

Generals of the Overseas Commands. It also includes the Commanding Officer of the Armed Services Medical Procurement Agency, the Executive Officer of the Armed Services Petroleum Purchasing Agency, and the head of any other procuring activity hereafter established. The number and designation of heads of procuring activities within any Department may be changed by directive of the Secretary of that Department.

§ 851.201-5 *Contracting officer.* The term "Contracting Officer" means any officer or civilian employee of any Department who, in accordance with procedures prescribed by each respective Department, has been or shall be designated a Contracting Officer (and whose designation has not been terminated or revoked) with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or any part of such authority, as hereinafter provided.

§ 851.201-6 *Contracts.* The term "contracts" means all types of agreements and orders for the procurement of supplies or services. It includes, by way of description and without limitation, awards and preliminary notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job orders, task orders or task letters thereunder; letter contracts, letters of intent, and purchase orders. It also includes amendments, modifications, and supplemental agreements with respect to any of the foregoing.

§ 851.201-7 *Procurement.* The term "procurement" includes, by way of description and without limitation, purchasing, renting, leasing, or otherwise obtaining supplies or services.

§ 851.201-8 *Supplies.* The term "supplies" means all property except land or interests in land. It includes, by way of description and without limitation, public works, buildings, facilities; ships, floating equipment, and vessels of every character, type and description, together with parts and accessories thereto; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

§ 851.201-9 *Sources of supplies.* The term "sources of supplies" shall include only (i) manufacturers or (ii) regular dealers in the supplies to be procured. A "regular dealer" shall be deemed to be any one of the following:

(a) A person or firm regularly carrying a stock of the supplies being procured, and having a warehouse or place of business from which sales are made;

(b) A bona fide manufacturer's agent regularly employed on a salary or commission basis by one or more manufacturers of the supplies being procured, provided such agent has authority to bind the manufacturer, and provided further that any procurement of supplies from or through such agent results in a contract issued in the name of the principal;

(c) In the case of supplies of particular kinds (lumber and timber products, coal, machine tools, or hay, grain, feed, and



straw) a person or firm satisfying the requirements of 41 U. S. C. 201.101 (b) (Article 101 (b) of the regulations prescribed by the Secretary of Labor under the Walsh-Healey Public Contracts Act (act of June 30, 1936; 41 U. S. C. 35)).

#### SUBPART C—BASIC POLICIES

§ 851.300 *Scope of subpart.* This subpart sets forth the general procurement policies of the Departments with respect to (a) methods of procurement, (b) sources of supply (including governmental and foreign purchases), (c) ineligible contractors and disqualified bidders, (d) types of contracts, and (e) specifications.

§ 851.301 *Methods of procurement.* It shall be the objective of each Department to use that method of procurement which will be most advantageous to the Government—price, quality, and other factors considered. The two principal methods of procurement are by means of formal advertising and by means of negotiation. Procurement shall generally be effected by advertising for bids and thereafter awarding a contract to the lowest responsible bidder, all in accordance with the detailed requirements and procedures set forth in Part 852 of this subchapter. Procurement may be effected by negotiation, however, when authorized by and conducted in accordance with the detailed requirements and procedures set forth in Part 853 of this subchapter. Procurement may also be effected, as provided in Parts 854 and 855 of this subchapter,<sup>1</sup> by such means as (a) coordinated procurement or (b) interdepartmental procurement.

#### § 851.302 *Sources of supplies.*

§ 851.302-1 *Government agencies.* To the extent possible, supplies shall be obtained from surplus property in the hands of disposal agencies, or from surplus or excess stocks in the hands of any Government agency. Interdepartmental purchases shall be made in accordance with the provisions of Part 855 of this subchapter.

§ 851.302-2 *Sources outside the Government.* Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "quotations" in the case of procurement by negotiation) shall be solicited from all such qualified sources of supplies or services as are deemed necessary by the Contracting Officer to assure such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the Department concerned, and thereby to obtain for the Government the most advantageous contract—price, quality, and other factors considered.

§ 851.302-3 *Small business concerns.* It shall be the policy of each Department to place with small business concerns (herein considered to be any concern which employs fewer than 500 persons) a fair proportion of the total procurement of supplies and services for that Depart-

ment. As a means of carrying out this policy, and when not clearly to the disadvantage of the Department, the procurement of supplies or services shall be divided into such reasonably small lots as will enable and encourage small business concerns to make bids or quotations on such supplies or services or on portions thereof. Each Department shall maintain a record of the total value of all contracts placed by it during each fiscal year with small business concerns, and shall prepare an annual report thereon, as of the end of each fiscal year and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the National Military Establishment for the preparation of a combined Armed Services report to be submitted to the President. To this end, each Department shall, in soliciting competitive proposals, request any necessary information as to the size of each business concern submitting a proposal.

§ 851.302-4 *Foreign purchases.* Foreign purchases shall be made in accordance with the provisions of Part 856 of this subchapter<sup>1</sup> and upon compliance with any other applicable provisions of this subchapter.

§ 851.303 *Ineligible contractors and disqualified bidders.* In accordance with its own procurement procedures, each Department shall maintain, and make available to all procuring activities of that Department, a current list of ineligible contractors and disqualified bidders, which list shall (a) comprise the following different groups of persons and firms, (b) indicate the reason for placing each person or firm on such list, and (c) indicate the extent to which each procuring activity is restricted in its dealings with any person or firm on such list:

(1) Persons and firms listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healey Public Contracts Act (Act of June 30, 1936; 41 U. S. C. 35) which have been found by the Secretary of Labor to have violated any of the agreements or representations required by that act.

(2) Persons and firms listed by the Department of Labor which have been held ineligible to be awarded contracts subject to the Walsh-Healey Public Contracts Act (that is, any contract for supplies in an amount exceeding \$10,000) for the reason that they do not qualify as "manufacturers" or "regular dealers" within the meaning of section 1 (a) of said act.

(3) Persons and firms listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (act of March 3, 1931; 40 U. S. C. 276a) found by the Comptroller General to have violated said act.

(4) Contractors who have been disqualified or declared ineligible in accordance with procedures prescribed by each respective Department.

§ 851.303-1 *Additions to and removals from the list of ineligible contractors and disqualified bidders.* The names of contractors or bidders shall be placed on or removed from a Department's list of

ineligible contractors and disqualified bidders in accordance with procedures prescribed by that Department.

§ 851.303-2 *Exchange of lists.* Each Department shall forward a copy of its list to the other Departments, and shall keep the other Departments advised of changes therein.

§ 851.304 *Types of contracts.* Only the fixed-price or lump-sum type of contract shall be used for procurement by formal advertising. For procurement by negotiation, it shall be the general practice for the fixed-price type of contract to be used (with or without provision for price revision), although under such method of procurement it shall be permissible to use any other method of contracting which complies with the applicable provisions of Subpart D of Part 853 of this subchapter.

§ 851.305 *Specifications.* There shall be one system of military specifications to be used by all Departments in accordance with policies and procedures to be established by the Munitions Board. Existing or new specifications, and amendments thereto, may be used until superseded or revised. Applicable Federal Specifications, as prepared by the Director of the Bureau of Federal Supply, Treasury Department, are acceptable for use. If for administrative reasons an applicable Federal specification cannot be used to meet the particular or essential needs of a Department, purchase specifications of that Department may then be used: *Provided*, That such specifications shall include in substance all applicable provisions of the related Federal specification, and a report showing the need for the use of such purchase specifications (whenever the purchase exceeds \$1,000 and whenever there is in existence an applicable Federal Specification) shall be made to the Director of the Bureau of Federal Supply, which report shall suffice for all subsequent purchases of a similar nature.

#### SUBPART D—PROCUREMENT RESPONSIBILITY AND AUTHORITY

§ 851.400 *Scope of subpart.* This subpart deals with the procurement responsibility and authority of (a) the head of each procuring activity, and (b) Contracting Officers; and imposes limitations upon the authority to enter into contracts.

§ 851.401 *Responsibility of each procuring activity.* Except as otherwise prescribed by procedures of each respective Department, the head of each procuring activity, as now or hereafter established, is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his activity. The head of each procuring activity is authorized, within limits imposed by his Department, to designate such person or persons as he may select as Contracting Officers, within the meaning of that term as used throughout this subchapter.

§ 851.402 *General authority of contracting officers.* In accordance with the provisions of § 851.401, and subject to the requirements prescribed

<sup>1</sup> To be promulgated at a later date.



in §§ 851.403, 851.404, and 851.405, any Contracting Officer is hereby authorized to enter into contracts for supplies or services, in accordance with procedures prescribed by the Department concerned, on behalf of the Government and in the name of the United States of America, whether by formal advertising or by negotiation or by coordinated or interdepartmental procurement as provided herein.

§ 851.403 *Requirements to be met before entering into contracts.* Irrespective of whether procurement is to be effected by formal advertising or by negotiation, no contract shall be entered into unless:

(a) All applicable requirements of law, of this subchapter, and of procedures prescribed by each respective Department have been met; and

(b) Such business clearance or approval as is prescribed by applicable Department procedures has been obtained.

§ 851.404 *Special requirements to be met before entering into negotiated contracts.* In addition to the requirements set forth in § 851.403, no contract shall be entered into as a result of negotiation until such determinations and findings as may be required with respect to the circumstances justifying negotiation and with respect to the use of a special method of contracting have been made by the persons and in the manner prescribed in Subparts C and D of Part 853.

#### PART 852—PROCUREMENT BY FORMAL ADVERTISING

Sec.

852.000 Scope of part.

##### SUBPART A—USE OF FORMAL ADVERTISING

852.101 Meaning of formal advertising.  
852.102 Use of formal advertising.  
852.103 General requirements for formal advertising.

##### SUBPART B—SOLICITATION OF BIDS

852.200 Scope of subpart.  
852.201 Preparation of forms.  
852.202 Methods of soliciting bids.  
852.202-1 Mailing or delivering to prospective bidders.  
852.202-2 Displaying in public place.  
852.202-3 Publishing in trade journals.  
852.202-4 Publishing in newspapers.  
852.203 Office of permanent record.

##### SUBPART C—SUBMISSION OF BIDS

852.301 Method of submission.  
852.302 Time of submission.  
852.303 Modification or withdrawal of bids.

##### SUBPART D—OPENING OF BIDS AND AWARD OF CONTRACT

852.400 Scope of subpart.  
852.401 Opening of bids.  
852.402 Recording of bids.  
852.403 Rejection of bids.  
852.404 Minor informalities or irregularities in bids.  
852.405 Mistakes in bids.  
852.405-1 Obvious or apparent mistakes of a clerical nature.  
852.405-2 Mistakes other than obvious or apparent mistakes of a clerical nature.  
852.405-3 Disclosure of mistakes after award.  
852.406 Award.  
852.406-1 Responsible bidder.  
852.406-2 Discounts.

Sec.

852.406-3 Other factors to be considered.  
852.406-4 Equal bids.  
852.406-5 Statement and certificate of award.  
852.407 Information to bidders.

##### SUBPART E—QUALIFIED PRODUCTS

Sec.

852.500 Scope of subpart.  
852.501 Authority for qualified products.  
852.502 Justification for inclusion of products on Qualified Products List.  
852.503 Qualification of products.  
852.503-1 Opportunity to qualify.  
852.503-2 Testing of product.  
852.503-3 Notification to manufacturer.  
852.504 Qualified Product Lists.  
852.504-1 Joint Army-Navy-Air Force lists.  
852.504-2 Department lists.  
852.504-3 Form and distribution of lists.  
852.504-4 Promotional purposes.  
852.504-5 Requirement that lists be kept open.  
852.504-6 Withdrawal of approval.  
852.505 Procurement of qualified products.  
852.505-1 Contracts entered into by formal advertising.  
852.505-2 Solicitation of bids.  
852.505-3 Contracts entered into by negotiation.

AUTHORITY: §§ 852.000 to 852.505-3, inclusive, issued under sec. 1 (a), (b), 54 Stat. 712, 55 Stat. 838, Pub. Law 413, 80th Cong.; 41 U. S. C. preceding sec. 1, note, 50 U. S. C. App. 601-622; E. O. 9001, Dec. 27, 1941, 3 CFR, Cum. Supp.

§ 852.000 *Scope of part.* This part sets forth, on the basis of the provisions of and authority contained in the act, (a) the basic requirements for the procurement of supplies and services by means of formal advertising, (b) the information to be contained in forms used for the solicitation of bids, (c) methods of soliciting bids, (d) policies with respect to the submission of bids, (e) requirements for the opening and evaluation of bids and for the awarding of contracts, and (f) requirements for the procurement of qualified products.

##### SUBPART A—USE OF FORMAL ADVERTISING

§ 852.101 *Meaning of formal advertising.* As used throughout this subchapter, formal advertising means that method of procurement prescribed in this part with respect to competitive bids and awards.

§ 852.102 *Use of formal advertising.* In accordance with the basic policies set forth in Subpart C of Part 851 of this subchapter, procurement of supplies and services shall generally be effected by formal advertising. Bids shall be solicited from all such qualified sources of supplies or services as are deemed necessary by the Contracting Officer to assure such full and free competition as is consistent with the procurement of the required supplies or services. Current lists of bidders shall be maintained by each purchasing office.

§ 852.103 *General requirements for formal advertising.* No contract shall be entered into as a result of formal advertising unless and until all of the following requirements have been satisfied:

(a) Bids have been solicited in accordance with the requirements of Subpart B of this part;

(b) Bids have been submitted in accordance with the requirements of Subpart C of this part;

(c) All applicable requirements of law, of this subchapter, and of procedures prescribed by each respective Department have been met;

(d) Such business clearance or approval as is prescribed by applicable Department procedures has been obtained; and

(e) Award has been made to that responsible bidder whose bid, conforming to the Invitation for Bids, will be most advantageous to the Government, price and other factors considered, as prescribed in Subpart D of this part.

##### SUBPART B—SOLICITATION OF BIDS

§ 852.200 *Scope of subpart.* This subpart deals with (a) the preparation of forms to be used in the solicitation of bids, and (b) methods of soliciting bids.

§ 852.201 *Preparation of forms.* The form or forms to be used in the solicitation of bids should contain substantially the following information and any other information required by procedures prescribed by each respective Department.

(a) *Invitation for bids.*

(i) Invitation number.

(ii) Name and address of issuing activity.

(iii) Date of issuance.

(iv) Date, hour, and place of opening.

(b) *Bid.* Bid blanks are to be filled in by the bidder, and each bid is to be executed in accordance with instructions to bidders.

(c) *Schedule.*

(i) Number of pages.

(ii) Requisition (or other purchase authority), appropriation, and accounting data.  
(iii) Discount provisions (including the removal of or changes in standard discount provisions whenever it is expected that prompt-payment discounts cannot be taken according to a time schedule set forth in the printed form).

(iv) Quantity of supplies or services to be furnished under each item, and any provision for quantity variation.

(v) Description of supplies or services to be furnished under each item, such description to be in accordance with the provisions of § 851.305 of this subchapter relating to specifications and with procedures prescribed by each respective Department.

(vi) Whenever specifications require prior testing and qualification of products, the right to reject bids offering products which do not meet this requirement of prior testing and qualification must be expressly reserved either in the specification itself or in the schedule. (See § 852.505-2.)

(vii) Time, place, and method of delivery.

(viii) Permission, if any, to submit telegraphic bids.

(ix) Permission, if any, to submit alternative bids, including alternative materials or designs.

(x) Requirement, in the case of advertising for the construction of Naval vessels, that the bidder file with his bid the estimates on which the bid is based.

(xi) Preservation, packaging, packing, and marking requirements, if any.

(xii) Place, method, and conditions of inspection.

(xiii) Bond and surety requirements, if any.

(xiv) Special provisions relating to such matters as Government-furnished property, progress payments, patent licenses, liquidated damages, profit limitations, etc., *Provided*, That any such special provisions are authorized.

(d) *General provisions or conditions.* In addition to the special provisions set forth



in the Schedule, each solicitation of bids shall include such general contract provisions or conditions as are required by law, by this subchapter, and by procedures prescribed by each respective Department.

**§ 852.202 Methods of soliciting bids.** Bids shall be solicited by the methods prescribed in §§ 852.202-1 and 852.202-2, and by any other of the following methods as are deemed necessary by the Contracting Officer in order to assure full and free competition, *Provided*, That (a) bids shall be solicited sufficiently in advance of the opening of bids to allow bidders an adequate opportunity to prepare and submit their bids, and (b) bids with respect to classified purchases shall be solicited in accordance with procedures prescribed by each respective Department.

**§ 852.202-1 Mailing or delivering to prospective bidders.** The form or forms to be used in the solicitation of bids shall be filled out and mailed (or delivered) to each prospective bidder.

**§ 852.202-2 Displaying in public place.** Copies of the form or forms to be used in the solicitation of bids shall be filled out and displayed at the purchasing office or at some other appropriate public place.

**§ 852.202-3 Publishing in trade journals.** A brief announcement of the proposed purchase may be made available for free publication to trade journals or magazines whose subscribers are manufacturers or of dealers in the supplies or services being procured.

**§ 852.202-4 Publishing in newspapers.** The essential details of any proposed purchase may be made available to newspapers for free publication. Paid advertisements in newspapers shall generally not be used; but when it is deemed necessary in order to secure effective competition, a brief announcement of the proposed purchase may be inserted in newspapers as paid advertisements, subject to the following conditions:

- (a) Written authority for such publication has been obtained from the Secretary of the Department concerned or from his duly authorized representative;
- (b) All requirements of law set forth in 44 U. S. C. 321-324 have been met; and
- (c) The advertisement shall be prepared in accordance with General Regulations No. 109, issued 20 December 1946 by the General Accounting Office (26 Comp. Gen. 986).

**§ 852.203 Office of permanent record.** Each purchasing office is the office of permanent record for every invitation for bids issued and distributed by it and for every abstract or record of bids. The file of the invitation for bids should show the distribution which was made and the date thereof.

#### SUBPART C—SUBMISSION OF BIDS

**§ 852.301 Method of submission.** Bids shall be filled out, executed, and submitted by each bidder in accordance with the instructions accompanying the appropriate bid form. Neither telegraphic nor alternative bids shall be considered unless authorized by the invitation for bids or its accompanying papers.

**§ 852.302 Time of submission.** Bids shall be submitted in sufficient time to reach the designated office prior to the time fixed for opening. Bids received after the time fixed for opening are late bids; and the exact date and hour of mailing such bids, as shown by the cancellation stamp or by the stamp of an approved metering device, shall be recorded. Such late bids shall be considered: *Provided*, They are received before the award has been made, *And provided*, The failure to arrive on time was due solely to a delay in the mails for which the bidder was not responsible; otherwise, late bids shall not be considered but shall be held unopened until the time of award and then returned to the bidder, unless other disposition is requested or agreed to by the bidder.

**§ 852.303 Modification or withdrawal of bids.** Bids may be modified or withdrawn, at any time prior to the time fixed for opening thereof, by written or telegraphic notice received prior to the time fixed for opening. After the opening of bids, no bid may be modified (except as provided in §§ 852.404 and 852.405) or withdrawn unless such modification or withdrawal is received before the award has been made and either (a) failure of the modification or withdrawal to arrive prior to the time fixed for opening was due solely to a delay in the mails for which the bidder was not responsible or (b) modification is in the interest of the Government and not prejudicial to the other bidders.

#### SUBPART D—OPENING OF BIDS AND AWARD OF CONTRACT

**§ 852.400 Scope of subpart.** This subpart deals with (a) the opening and recording of bids, (b) the rejection of bids, (c) informalities, irregularities, and mistakes in bids, and (d) the evaluation of bids and the awarding of contracts.

**§ 852.401 Opening of bids.** All bids received prior to the time of opening will be kept secure and unopened until the time of opening (except that an unidentified bid may be opened solely for purposes of identification: *Provided*, That such bid shall be resealed immediately and that no information obtained therefrom shall be disclosed), whereupon they shall be publicly opened and read aloud by the Government official whose duty it is to open the bids. Whereas it is the primary responsibility of bidders to prepare their bids correctly and completely, nevertheless it is the duty of the Contracting Officer, after the opening of bids and prior to award, to examine all bids for minor informalities or irregularities and for obvious or apparent mistakes (as referred to in §§ 852.404 and 852.405 respectively). The original bids shall not be allowed to pass out of the hands of an official of the Government, except when a duplicate bid cannot be made available for public inspection, and then only under the immediate supervision of an official of the Government and under conditions which preclude the possibility of a substitution, addition, deletion, or alteration in the bid.

**§ 852.402 Recording of bids.** The names of the bidders and the prices bid

shall be entered in an abstract or record which shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the opening date, invitation number, general description of the material, lot number, and total bid price. As soon as all bids have been opened and read, the official in charge shall make the certification in the record in accordance with procedures prescribed by each respective Department.

**§ 852.403 Rejection of bids.** Any bid which does not conform to the essential requirements of the invitation for bids shall be rejected: *Provided*, That any such bid may be considered when in the interest of the Government and not prejudicial to the other bidders. All bids may be rejected by the Contracting Officer (a) when rejection is in the interest of the Government, or (b) when he finds in writing that the bids are not reasonable, or were not independently arrived at in open competition, or are collusive, or were submitted in bad faith: *Provided*, That, if negotiation is to be used after any such rejection of all bids, the requirements of § 853.215 of this subchapter must be satisfied. The originals of all rejected bids, and any written findings with respect to rejections, shall be preserved with the papers relating to the proposed purchase. Reports of possible violations of the antitrust laws or of any other Federal criminal statutes relating to procurement shall be made by each respective Department in accordance with procedures prescribed by that Department: *Provided*, That any evidence of bids not independently arrived at shall be forwarded to the Department of Justice.

**§ 852.404 Minor informalities or irregularities in bids.** The Contracting Officer shall give to the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or in the alternative, when it is not to the disadvantage of the Government, may waive any such deficiency when time does not permit the curing thereof. Illustrative examples of minor informalities or irregularities are the following: inadvertent failure to furnish bid bond with bid; failure to affix corporate seal; failure to furnish required catalogs, cuts or descriptive data.

#### § 852.405 Mistakes in bids.

**§ 852.405-1 Obvious or apparent mistakes of a clerical nature.** Any clerical mistake obvious or apparent on the face of a bid may be corrected by the Contracting Officer prior to award: *Provided*, There has first been obtained from the bidder, in response to a request for verification of the bid, a statement as to any such mistake therein. Illustrative examples of such obvious or apparent mistakes are the following: obvious error in placing decimal point; obvious discount errors (for example—1 per cent 10 days, 2 per cent 20 days, 5 per cent 30 days); erroneous quotations of a lower price f. o. b. destination than f. o. b. factory.

**§ 852.405-2 Mistakes other than obvious or apparent mistakes of a clerical**



*nature.* In the case of any suspected or alleged mistake in a bid other than an obvious or apparent clerical mistake on the face of the bid, the Contracting Officer shall obtain from the bidder, prior to award, either a verification of the bid or evidence in support of the mistake, whereupon the case shall be processed to the General Accounting Office in accordance with procedures prescribed by each respective Department: *Provided, That:*

(a) If the bidder fails or refuses to furnish evidence in support of the mistake, the Contracting Officer shall consider the bid in the form submitted; or

(b) If time does not permit processing in accordance with customary procedures, and if there is no room for doubt as to the price or other terms intended in the bid in which a mistake occurred, the Contracting Officer (1) in the case of a mistake in the lowest bid which as clearly intended would not be the lowest bid, may disregard such bid, or (2) in the case of a mistake in the lowest bid which as clearly intended would still be the lowest bid, shall make the award on the basis of such low bid as originally submitted, but subject to correction if authorized by the General Accounting Office, or (3) in the case of a mistake in any bid other than the lowest bid, shall consider such bid on the basis of its price or other terms as clearly intended.

Whenever a mistake in bid is to be processed in accordance with customary procedures, the following papers should accompany a copy of the bid which contains the suspected or alleged mistake:

- (i) A copy of the invitation for bids;
- (ii) An abstract or record of bids received;
- (iii) A statement from the bidder, and any additional supporting evidence such as work sheets or other data used in preparing the bid, setting forth the complete facts on which the allegation of mistake is based and requesting such definite relief as withdrawal of the bid, change in bid price, etc.; and
- (iv) A statement from the Contracting Officer showing the date when notice of the alleged mistake was received, and any additional information he may have as to the alleged mistake, together with his recommendations.

§ 852.405-3 *Disclosure of mistakes after award.* When an alleged mistake in a bid is disclosed after award has been made, the case shall be processed in accordance with procedures prescribed by each respective Department.

§ 852.406 *Award.* Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided, That* an award shall not be made to other than the lowest responsible bidder except in accordance with procedures prescribed by each respective Department. Award will be effected by mailing or delivering to the bidder a properly executed award or preliminary notice of award.

§ 852.406-1 *Responsible bidder.* A "responsible bidder" is a bidder who satisfies all of the following requirements:

(a) Is a manufacturer or regular dealer, as defined in § 851.201-9;

(b) Is financially and otherwise able to perform the contract; and

(c) Is otherwise qualified and eligible by law and under this subchapter.

§ 852.406-2 *Discounts.* In determining which of several bids received is the lowest, any discount offered shall be deducted from the bid price under the assumption that the discount shall be taken, unless it is known with reasonable certainty that the Government cannot take advantage of the discount within the time specified. If, when the bids are opened, facts become known which render it necessary to disregard a discount, a full statement of the facts and circumstances and of the reasons for the action taken shall be entered upon the abstract or record of bids and on U. S. Standard Form 1036 (as referred to in § 852.406-5) whenever such bid would have been the lowest bid received if the discount offered were taken.

§ 852.406-3 *Other factors to be considered.* Among other factors besides price that may be considered in making an award are the following:

(a) Judgment, skill, and integrity of a bidder;

(b) Reputation and experience of a bidder, and prior work of a similar nature done by him;

(c) Foreseeable costs or delays to the Government resulting from differences in inspection, shipping, location of supplies, etc.;

(d) Changes made or requested in any of the provisions of the solicitation, to the extent that any such change does not constitute ground for rejection of the bid under the provisions of § 852.403;

(e) Restrictions or conditions imposed in the bid; and

(f) Advantages or disadvantages to the Government that might result from making multiple awards.

§ 852.406-4 *Equal bids.* (a) When two or more bids are equal in all respects (taking into consideration cost of transportation, cash discounts, and any other factor properly to be considered), award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives.

(b) When award is to be made by lot and the information available shows that the product of a particular manufacturer is offered by more than one bidder, a preliminary drawing by lot shall be made to ascertain which of the bidders offering the product of a particular manufacturer will be included in the final drawing to determine the award.

§ 852.406-5 *Statement and certificate of award.* In connection with every purchase made by formal advertising, the Contracting Officer shall prepare and execute a statement and certificate of award on U. S. Standard Form 1036, which shall be attached to the original documents and papers constituting the contract which are forwarded to the General Accounting Office. Such certificate shall either (a) state that the accepted bid was the lowest bid received, or (b) list all lower bids and set forth

reasons for accepting a bid other than the lowest.

§ 852.407 *Information to bidders.* To the extent reasonable and practicable, and in accordance with procedures prescribed by each respective Department, any bidder or his authorized representative shall be furnished with authorized information in response to proper questions, including the names of the successful bidders and the prices at which awards were made for items on which the inquirer submitted bids, or in the alternative shall be informed that a copy of the abstract or record of bids is available for inspection at the purchasing office.

#### SUBPART E—QUALIFIED PRODUCTS

§ 852.500 *Scope of subpart.* This subpart deals with (a) Qualified Products, (b) lists of such products established by each respective Department and by the Army-Navy Joint Specifications Board, and (c) the purpose and use of such lists in connection with the procurement of supplies.

§ 852.501 *Authority for Qualified Products.* In those instances where it has been shown to be necessary in the light of existing performance requirements to obtain products of requisite quality, each Department may subject certain products and materials to qualification test, and may approve them for use. The results of such testing and approval may be set forth in a Qualified Products List. Such lists, together with the Qualified Products Lists established by the Army-Navy Joint Specifications Board, shall be used for the purpose and in the manner set forth in this subpart.

§ 852.502 *Justification for inclusion of products on Qualified Products List.* A product may be included in any Qualified Products List only when one of the following conditions exists:

(a) The time required for testing after award would unduly delay delivery of the supplies being purchased;

(b) The cost of repetitive testing would be excessive;

(c) The tests would require expensive or complicated testing apparatus not commonly available;

(d) The interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use;

(e) The determination of acceptability would require performance data to supplement technical requirements contained in the specifications.

§ 852.503 *Qualification of products.*

§ 852.503-1 *Opportunity to qualify.* Upon determination that a product is to be covered by a Qualified Products List, opportunity shall be given, and manufacturers urged, to submit for qualification tests any product of the general type desired. Publicity shall be given to the following:

(a) Intention to place a product on a Qualified Products List; and

(b) In making future awards, the fact that consideration may be given only to such products as have been accepted for inclusion in a Qualified Products List.



§ 852.503-2 *Testing of product.* The manner, extent, and cost of testing shall be in accordance with procedures prescribed by each respective Department. Each Department shall inform the other Departments of such tests, and upon request shall furnish reports thereon to the other Departments. As a result of such testing each Department shall decide whether or not the product should be placed on the Qualified Products List of that Department. Products tested and qualified by any Department may be included in the Qualified Products List of any other Department.

§ 852.503-3 *Notification to manufacturer.* Each Department shall notify the manufacturer submitting a product for test of the approval or rejection of the product. In the event that the product is approved for inclusion in a Qualified Products List, notification thereof shall be given to the manufacturer together with a statement to the effect that such listing does not (a) guarantee acceptance of the product in any future purchase, (b) constitute a waiver of the requirements of the schedule or the specifications as to acceptance, inspection, testing, or other provisions of any contract involving such product, or (c) permit any statement of approval to be reproduced, circulated, referred to or otherwise used for private commercial sales, promotional or advertising purposes, and that if so used such approval is subject to cancellation by the Department concerned. In the event that the product is not approved for inclusion in a Qualified Products List, notice thereof shall be given to the manufacturer, with a report covering the results obtained by the test. Whether a product is approved or rejected, it will be returned after test to the manufacturer "as is" (unless destroyed in testing).

§ 852.504 *Qualified Products Lists.* Products qualified by qualification tests, as described in § 852.503, shall be listed for reference by the Departments. The information contained in these lists may be made available to interested bidders or contractors whenever specifications or solicitations of bids require qualified products.

§ 852.504-1 *Joint Army - Navy - Air Force lists.* Where qualification is in accordance with tests prescribed by joint Army-Navy-Air Force specifications, the compilation, preparation, maintenance, and administration of Qualified Products Lists shall be in accordance with the requirements of the Army-Navy Joint Specifications Board.

§ 852.504-2 *Department lists.* Where qualification is in accordance with tests prescribed by a Department, Qualified Products Lists shall be compiled, prepared, maintained, and administered in accordance with procedures prescribed by each respective Department.

§ 852.504-3 *Form and distribution of lists.* Each Qualified Products List shall include substantially the following information: Government designation, manufacturer's designation, test or qualification reference, and manufacturer's name and address. Each Department

shall furnish copies of its list (including changes thereto) to each of the other Departments.

§ 852.504-4 *Promotional purposes.* No Department shall authorize the reproduction of lists or any reference to lists, in whole or in part, for advertising or promotional purposes except in connection with or for the purpose of furnishing supplies to a Department.

§ 852.504-5 *Requirement that lists be kept open.* The lists shall always be open for inclusion of products from additional manufacturers as their products are submitted for qualification and become qualified.

§ 852.504-6 *Withdrawal of approval.* The approval of a product may be withdrawn by the Department concerned if it is subsequently determined that the product does not meet requirements. In such event, the manufacturer shall be notified that his product is being considered for withdrawal from a Qualified Products List, and the reasons therefor shall be communicated to him. If, after a reasonable length of time, no satisfactory response has been received from such manufacturer in answer to such communication, and it is decided by the Department concerned that approval should be withdrawn, the manufacturer shall be notified of such withdrawal. A product may be removed from a list at the request of a manufacturer.

§ 852.505 *Procurement of qualified products.*

§ 852.505-1 *Contracts entered into by formal advertising.* Whenever procurement of qualified products by a Department is made pursuant to formal advertising in accordance with the provisions of this part, only bids offering products which have been approved or qualified need be considered in making an award. Manufacturers having products not listed should be given consideration and an opportunity to qualify if qualification testing of the product may be accomplished in the time interval before final award must be made.

§ 852.505-2 *Solicitation of bids.* Each solicitation of bids involving qualified products shall be distributed to known sources of supplies in accordance with the requirements of Subparts A and B of this part, and shall contain a statement substantially as follows:

In the procurement of products requiring qualification the right is reserved to reject bids on products that have not been subjected to the required test and found satisfactory for inclusion in the Qualified Products List of (insert designation of particular list or lists). The attention of suppliers is called to this requirement, and manufacturers are urged to communicate with the (insert name and address of sources of information) and arrange to have the products that they propose to offer tested for qualification.

§ 852.505-3 *Contracts entered into by negotiation.* Nothing in this subpart shall be construed to prohibit reference to Qualified Products Lists for prospective sources of supplies in connection with contracts entered into by negotiation pursuant to Part 853 of this subchapter.

## PART 853—PROCUREMENT BY NEGOTIATION

Sec.	Scope of part.
853.000	Scope of part.
SUBPART A—USE OF NEGOTIATION	
853.100	Scope of subpart.
853.101	Negotiation as distinguished from formal advertising.
853.102	General requirements for negotiation.
853.103	Records and reports of negotiated contracts.
SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION	
853.200	Scope of subpart.
853.201	National emergency.
853.201-1	Authorization.
853.201-2	Application.
853.202	Public exigency.
853.202-1	Authorization.
853.202-2	Application.
853.202-3	Limitation.
853.203	Purchases not in excess of \$1,000.
853.203-1	Authorization.
853.203-2	Application.
853.204	Personal or professional services.
853.204-1	Authorization.
853.204-2	Application.
853.205	Services of educational institutions.
853.205-1	Authorization.
853.205-2	Application.
853.206	Purchases outside the United States.
853.206-1	Authorization.
853.206-2	Application.
853.207	Medicines or medical supplies.
853.207-1	Authorization.
853.207-2	Application.
853.208	Supplies purchased for authorized resale.
853.208-1	Authorization.
853.208-2	Application.
853.209	Perishable subsistence supplies.
853.209-1	Authorization.
853.209-2	Application.
853.210	Supplies or services for which it is impracticable to secure competition by formal advertising.
853.210-1	Authorization.
853.210-2	Application.
853.210-3	Limitation.
853.211	Experimental, developmental, or research work.
853.211-1	Authorization.
853.211-2	Application.
853.211-3	Limitation.
853.211-4	Records and reports.
853.212	Classified purchases.
853.212-1	Authorization.
853.212-2	Application.
853.212-3	Limitation.
853.213	Technical equipment requiring standardization and interchangeability of parts.
853.213-1	Authorization.
853.213-2	Application.
853.213-3	Limitation.
853.214	Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.
853.214-1	Authorization.
853.214-2	Application.
853.214-3	Limitation.
853.215	Negotiation after advertising.
853.215-1	Authorization.
853.215-2	Limitation.
853.216	Purchases in the interest of national defense or industrial mobilization.
853.216-1	Authorization.
853.216-2	Application.
853.216-3	Limitation.
853.216-4	Records and reports.
853.217	Otherwise authorized by law.
853.217-1	Authorization.
853.217-2	Application.
853.218	Construction work.



- Sec.  
853.218-1 Authorization.  
853.218-2 Limitation.

## SUBPART C—DETERMINATIONS AND FINDINGS

- 853.300 Scope of subpart.  
853.301 Nature of determinations and findings.  
853.302 Determinations and findings by the Secretary of a Department.  
853.303 Determinations and findings by the head of a procuring activity signing as "a chief officer responsible for procurement".  
853.304 Determinations and findings by a Contracting Officer.  
853.305 Forms of determinations and findings.  
853.306 Procedure with respect to determinations and findings.  
853.307 Distribution of copies of determinations and findings.  
853.308 Retention of copies of determinations and findings, and of other records.

## SUBPART D—TYPES OF CONTRACTS

- 853.400 Scope of subpart.  
853.401 Authorized types of contracts.  
853.402 Fixed-price contract.  
853.403 Fixed-price contract with provision for redetermination of price.  
853.404 Incentive-type contract.  
853.404-1 Limitation on use of incentive-type contract.  
853.405 Cost contract.  
853.405-1 Limitation on use of cost contract.  
853.406 Cost-plus-a-fixed-fee contract.  
853.406-1 Limitation on use of cost-plus-a-fixed-fee contract.  
853.406-2 Limitations on fixed fee.  
853.407 Time and materials contract.  
853.408 Letter contract of letter of intent.  
853.409 Other types of contracts.  
853.410 Books and records of cost-type contractors.  
853.411 Contract forms and provisions.

## SUBPART E—ADVANCE PAYMENTS

- 853.500 Scope of subpart.  
853.501 Nature of advance payments.  
853.502 Authority to make advance payments.  
853.503 Limitations on authority to make advance payment.  
853.504 Security provisions.  
853.505 Interest on advance payments.

AUTHORITY: §§ 853.000 to 853.505, inclusive, issued under sec. 1 (a), (b), 54 Stat. 712, 55 Stat. 838, Pub. Law 413, 80th Cong.; 41 U. S. C. preceding sec. 1 note, 50 U. S. C. App. 601-622, E. O. 9001, Dec. 27, 1941, 3 CFR, Cum. Supp.

## PART 853—PROCUREMENT BY NEGOTIATION

§ 853.000 *Scope of part.* This part sets forth, on the basis of the provisions of and authority contained in the act, (a) the basic requirements for the procurement of supplies and services by means of negotiation, (b) the different circumstances under which negotiation is permitted, (c) determinations and findings that may be required to be made before a contract is entered into by negotiation, (d) approved types of negotiated contracts and their use, and (e) the authority for making advance payments under negotiated contracts.

## SUBPART A—USE OF NEGOTIATION

§ 853.100 *Scope of subpart.* This subpart deals with the nature and use of negotiation as distinguished from

formal advertising, and with limitations upon that use.

§ 853.101 *Negotiation as distinguished from formal advertising.* As used throughout this subchapter, negotiation means that method of procurement under which the procedures for procurement by formal advertising, as set forth in Part 852 of this subchapter, are not required. Whenever supplies or services are to be procured by negotiation, price quotations, supported by statements and analyses of estimated costs or other evidence of reasonable prices and other vital matters deemed necessary by the Contracting Officer, shall be solicited from all such qualified sources of supplies or services as are deemed necessary by the Contracting Officer to assure full and free competition consistent with the procurement of the required supplies or services, in accordance with the basic policies set forth in Subpart C of Part 851 of this subchapter, to the end that the procurement will be made to the best advantage of the Government, price and other factors considered. Negotiation shall thereupon be conducted, by Contracting Officers and their negotiators, with due attention being given to the following and any other appropriate factors:

(a) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services, with due regard to cost of transportation, cash discounts, and any other factor relating to price;

(b) Comparison of the business reputations and responsibilities of the respective persons or firms who submit quotations;

(c) Consideration of the quality of the supplies or services offered, or of the same or similar supplies or services previously furnished, with due regard to the satisfaction of technical requirements;

(d) Consideration of delivery requirements;

(e) Discriminating use of price and cost analyses;

(f) Investigation of price aspects of any important subcontract;

(g) Individual bargaining, by mail or by conference;

(h) Consideration of cost sharing; and

(i) Effective utilization in general of the most desirable type of contract, and in particular of contract provisions relating to price redetermination.

§ 853.102 *General requirements for negotiation.* No contract shall be entered into as a result of negotiation unless or until the following requirements have been satisfied:

(a) The contemplated procurement comes within one of the circumstances permitting negotiation enumerated in Subpart B of this part;

(b) Any necessary determinations and findings prescribed in Subpart C of this part have been made; and

(c) Such business clearance or approval as is prescribed by applicable Department procedures has been obtained.

§ 853.103 *Records and reports of negotiated contracts.* In addition to the records and reports required by the provisions of § 851.302-3 of this subchapter,

and §§ 853.211-4 and 853.216-4, each Department shall maintain a record of the total value of all contracts negotiated by it during each fiscal year (beginning with that portion of the current fiscal year during which the act is effective) under each of the circumstances permitting negotiation enumerated in Subpart B of this part, and shall prepare an annual report thereon, as of the end of each fiscal year and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the National Military Establishment for the preparation of a combined Armed Services report to be submitted to the President.

## SUBPART B—CIRCUMSTANCES PERMITTING NEGOTIATION

§ 853.200 *Scope of subpart.* Subject to the limitations prescribed in Subpart A of this part, and pursuant to the authority of section 2 (c) of the act, procurement may be effected by negotiation, and contracts may be entered into as a result of negotiation without formal advertising, under any one of the circumstances set forth in the following sections of this subpart.

§ 853.201 *National emergency.*

§ 853.201-1 *Authorization.* Pursuant to the authority of section 2 (c) (1) of the act, purchases and contracts may be negotiated without formal advertising if: "determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress."

§ 853.201-2 *Application.* This authority shall be used only to the extent determined by the Secretary concerned to be necessary in the public interest and then only in accordance with procedures prescribed by each respective Department.

§ 853.202 *Public exigency.*

§ 853.202-1 *Authorization.* Pursuant to the authority of section 2 (c) (2) of the act, purchases and contracts may be negotiated without formal advertising if: "the public exigency will not admit of the delay incident to advertising."

§ 853.202-2 *Application.* In order for this authority to be used, the need must be compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of formal advertising. The following are illustrative of circumstances with respect to which this authority may be used:

(a) Supplies or services needed at once because of a fire, flood, explosion, or other disaster;

(b) Essential equipment for or repair to a ship when such equipment or repair is needed at once for compliance with the orders of the ship;

(c) Essential equipment for or repair to aircraft grounded or about to be grounded, when such equipment or repair is needed at once for the performance of the operational mission of such aircraft.



§ 383.202-3 *Limitation.* Every contract that is negotiated under the authority of this section shall be accompanied by a signed statement of the contracting officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with the copy of the contract negotiated and executed hereunder.

§ 853.203 *Purchases not in excess of \$1,000.*

§ 853.203-1 *Authorization.* Pursuant to the authority of section 2 (c) (3) of the act, purchases and contracts may be negotiated without formal advertising if: "the aggregate amount involved does not exceed \$1,000."

§ 853.203-2 *Application.* Purchases or contracts aggregating \$1,000 or less shall be made under this section rather than under any other provision of this part. In arriving at "the aggregate amount involved," there must be included all supplies and services which would properly be grouped together in a single transaction, and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. Purchases or contracts aggregating more than \$1,000 shall not be broken down into several purchases or contracts which are less than \$1,000, nor shall customary purchasing or contracting procedures be altered, merely for the purpose of permitting negotiation under this section.

§ 853.204 *Personal or professional services.*

§ 853.204-1 *Authorization.* Pursuant to the authority of section 2 (c) (4) of the act, purchases and contracts may be negotiated without formal advertising if: "for personal or professional services."

§ 853.204-2 *Application.* This authority shall be used only when all of the following conditions have been satisfied:

(a) If personal services, they are required to be performed by an individual contractor in person (not by a firm), or if professional services, they may be performed either by an individual contractor in person or a firm or organization;

(b) The services (1) are of a professional nature, or (2) are to be performed under Government supervision and paid for on a time basis;

(c) Procurement of the services is authorized by law, and is effected in accordance with the requirements of any such law and in accordance with procedures prescribed by each respective Department.

This authority, and the above conditions imposed upon its use, shall not apply to the procurement by negotiation of any type of services authorized under any other provision of this part.

§ 853.205 *Services of educational institutions.*

§ 853.205-1 *Authorization.* Pursuant to the authority of section 2 (c) (5) of the act, purchases and contracts may be negotiated without formal advertising if: "for any service to be rendered by any

university, college, or other educational institution."

§ 853.205-2 *Application.* The following are illustrative of circumstances with respect to which this authority may be used:

(a) Educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel, and for necessary material, services, and supplies furnished by any such institution in connection therewith;

(b) Experimental, developmental, or research work (including services, tests, and reports necessary or incidental thereto) to be conducted by any university, college, or other educational institution, and reports furnished in connection therewith;

(c) Analyses, studies, or reports (statistical or otherwise) to be conducted by any university, college, or other educational institution.

§ 853.206 *Purchases outside the United States.*

§ 853.206-1 *Authorization.* Pursuant to the authority of section 2 (c) (6) of the act, purchases and contracts may be negotiated without formal advertising if: "the supplies or services are to be procured and used outside the limits of the United States and its possessions."

§ 853.206-2 *Application.* This authority shall be used only for the procurement of supplies or services which are actually purchased and used outside the limits of the United States and its possessions (irrespective of the actual place of negotiation or execution of the contract), such as supplies, construction or services for overseas installations or for the use of overseas forces.

§ 853.207 *Medicines or medical supplies.*

§ 853.207-1 *Authorization.* Pursuant to the authority of section 2 (c) (7) of the act, purchases and contracts may be negotiated without formal advertising if: "for medicines or medical supplies."

§ 853.207-2 *Application.* This authority shall be used only when the following two requirements have been satisfied:

(a) Such supplies are peculiar to the field of medicine, and include technical equipment such as surgical instruments, surgical and orthopedic appliances, X-ray supplies and equipment, and the like, but do not include prosthetic equipment; and

(b) Whenever the probable cost of medicines or medical supplies purchased by negotiation under this section will exceed \$10,000, suitable advance publicity of the proposed purchase shall be given, with the form and extent of such publicity (which shall be given for a period of at least 15 days wherever practicable) to be determined in accordance with procedures prescribed by each respective Department.

§ 853.208 *Supplies purchased for authorized resale.*

§ 853.208-1 *Authorization.* Pursuant to the authority of section 2 (c) (8) of the

act, purchases and contracts may be negotiated without formal advertising if: "for supplies purchased for authorized resale."

§ 853.208-2 *Application.* This authority shall be used only for purchases for resale, where appropriated funds are involved, and ordinarily only for purchases of articles with brand names or of a proprietary nature as required by patrons of the selling activity. In any event, however, when the probable cost of such supplies will exceed \$10,000, suitable advance publicity of the proposed purchase shall be given, with the form and extent of such publicity (which shall be given for a period of at least 15 days wherever practicable) to be determined in accordance with procedures prescribed by each respective Department.

§ 853.209 *Perishable subsistence supplies.*

§ 853.209 *Authorization.* Pursuant to the authority of section 2 (c) (9) of the act, purchases and contracts may be negotiated without formal advertising if: "for perishable subsistence supplies."

§ 853.209-2 *Application.* This authority may be used for the purchase of any and all kinds of perishable subsistence.

§ 853.210 *Supplies or services for which it is impracticable to secure competition by formal advertising.*

§ 853.210-1 *Authorization.* Pursuant to the authority of section 2 (c) (10) of the act, purchases and contracts may be negotiated without formal advertising if: "for supplies or services for which it is impracticable to secure competition."

§ 853.210-2 *Application.* The following are illustrative of circumstances with respect to which this authority may be used:

(a) When the supplies or services can be obtained from only one person or firm ("sole source of supply");

(b) When competition is precluded because of the existence of patent rights, copyrights, secret processes, control of basic raw material, or similar circumstances;

(c) When bids have been solicited pursuant to the requirements of Part 852 of this subchapter, and no responsive bid (a responsive bid is any bid which conforms to the essential requirements of the solicitation of bids) has been received from a responsible bidder;

(d) When bids have been solicited pursuant to the requirements of Part 852 of this subchapter, and the responsive bid or bids do not cover the quantitative requirements of the solicitation of bids, in which case negotiation is permitted for the remaining requirements of the solicitation of bids;

(e) When the contemplated procurement is for electric power or energy, gas (natural or manufactured), water, or other utility services;

(f) When the contemplated procurement is for training film, motion picture productions, or manuscripts;

(g) When the contemplated procurement is for technical, non-personal services in connection with the assembly, installation, or servicing (or the instruction



of personnel therein) of equipment of a highly technical or specialized nature;

(h) When the contemplated procurement is for studies or surveys covering industrial mobilization planning;

(i) When the contemplated procurement involves maintenance, repair, alterations or inspection, in connection with any one of which types of services the exact nature or amount of the work to be done is not known;

(j) When the contemplated procurement is for stevedoring, terminal, warehousing, or switching services, and when either the rates are established by law or regulation or the rates are so numerous or complex that it is impracticable to set them forth in the specifications of a formal solicitation of bids;

(k) When the contemplated procurement is for commercial ocean or air transportation, including time charters, space charters and voyage charters over trade routes not covered by common carriers (as to which, negotiation is authorized under the provisions of § 853.217 and section 321 of Part III of the Interstate Commerce Act of September 18, 1940, 49 U. S. C. 65), and including services for the operation of Government-owned vessels or aircraft;

(l) When the contract is for services related to the procurement of perishable subsistence such as protective storage, icing, processing, packaging, handling and transportation whenever it is impracticable to advertise for such services a sufficient time in advance of the delivery of the perishable subsistence;

(m) When it is impossible to draft, for a solicitation of bids, adequate specifications or any other adequately detailed description of the required supplies or services.

**§ 853.210-3 Limitation.** The authority of this section shall not be used when negotiation is authorized by the provisions of §§ 853.211, 853.212, 853.213, 853.214, 853.215, or 853.216. Every contract that is negotiated under the authority of §§ 853.210 to 853.210-3, inclusive, shall be accompanied by a signed statement of the Contracting Officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with a copy of the contract negotiated and executed hereunder.

**§ 853.211 Experimental, developmental, or research work.**

**§ 853.211-1 Authorization.** Pursuant to the authority of section 2 (c) (11) of the act, purchases and contracts may be negotiated without formal advertising if the Secretary: "determines that the purchase or contract is for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test"; *Provided*, That in the case of contracts for \$25,000 or less, the head of a procuring activity, signing as "a chief officer responsible for procurement," is authorized without power of redelegation to make the required determination.

**§ 853.211-2 Application.** The following are illustrative of circumstances with respect to which this authority may be used:

(a) Contracts relating to theoretical analysis, exploratory studies, and experimentation in any field of science or technology;

(b) Developmental contracts calling for the practical application of investigative findings and theories of a scientific or technical nature;

(c) The purchase of such quantities and kinds of equipment, supplies, parts, accessories, or patent rights thereto, and drawings or designs thereof, as are necessary for experimentation, development, research, or test;

(d) Services, tests, and reports necessary or incidental to experimental, developmental, or research work.

This authority shall not be used for contracts for quantity production except that such quantities may be purchased hereunder as are necessary to permit complete and adequate experimentation, development, research or test; however, research or development contracts which call for the production of a reasonable number of experimental or test models, or prototypes, shall not be regarded as contracts for quantity production.

**§ 853.211-3 Limitation.** In order for this authority to be used, the required determination to be made by any Secretary (or, in the case of contracts for \$25,000 or less, by the head of any purchasing activity signing as "a chief officer responsible for procurement") must be made in accordance with the requirements of Subpart C of this part.

**§ 853.211-4 Records and reports.** Each Department shall maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this section, together with the amount of the contract and (with due consideration given to the National security) a description of the work required to be performed thereunder, and shall prepare a report thereon, at the end of the current fiscal year (covering that portion of the current fiscal year during which this subchapter is effective) and at the end of each six-month period thereafter, and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the National Military Establishment for the preparation of a combined Armed Services report to be submitted semi-annually to the Congress.

**§ 853.212 Classified purchases.**

**§ 853.212-1 Authorization.** Pursuant to the authority of section 2 (c) (12) of the act, purchases and contracts may be negotiated without formal advertising if: "for supplies or services as to which the Secretary determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed."

**§ 853.212-2 Application.** This authority shall be used only when military considerations necessitate security, and then only for such purchases or contracts as are classified confidential or higher.

**§ 853.212-3 Limitation.** In order for this authority to be used, the required determination to be made by any Secretary must be made in accordance with

the requirements of Subpart C of this part.

**§ 853.213 Technical equipment requiring standardization and interchangeability of parts.**

**§ 853.213-1 Authorization.** Pursuant to the authority of section 2 (c) (13) of the act, purchases and contracts may be negotiated without formal advertising if: "for equipment which the Secretary determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest."

**§ 853.213-2 Application.** This authority may be used for procuring additional units and replacement items of technical equipment and spare parts which have been standardized in accordance with procedures prescribed by each respective Department. This authority would apply, for example, whenever it is necessary:

(a) To limit the quantity of spare parts that must be carried in stock; or

(b) To make possible, by standardization, the availability of parts that may be interchanged among pieces of damaged equipment during combat or other emergency; or

(c) To procure from one supplier technical equipment which is available from a number of suppliers but which would have such varying performance characteristics (notwithstanding detailed specifications and rigid inspection) as would prevent standardization and interchangeability of parts.

**§ 853.213-3 Limitation.** This authority shall not be used for initial procurements of equipment and spare parts which will ultimately be standardized, or for the purpose of selecting arbitrarily the equipment of certain suppliers; nor shall it be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that:

(a) The supplies constitute technical equipment or component parts thereof; and

(b) Negotiation is necessary in order to assure standardization of the equipment and interchangeability of parts; and

(c) Such standardization and interchangeability is necessary in the public interest.

**§ 853.214 Technical or specialized supplies requiring substantial initial investment or extended period of preparation for manufacture.**

**§ 853.214-1 Authorization.** Pursuant to the authority of section 2 (c) (14) of the act, purchases and contracts may be negotiated without formal advertising if: "for supplies of a technical or specialized nature requiring a substantial initial investment or an extended period of preparation for manufacture, as determined by the Secretary, when he determines that advertising and competitive bidding may require duplication of investment or preparation already made,



or will unduly delay procurement of such supplies."

§ 853.214-2 *Application.* This authority may be used for the procurement of technical or specialized supplies—for example: aircraft, tanks, radar, guided missiles, rockets, and similar items of equipment; major components of any of the foregoing; and any supplies of a technical or specialized nature which may be necessary for the use or operation of any of the foregoing. Such procurement generally involves:

(a) High starting costs which already have been paid for by the Government or by the supplier;

(b) Preliminary engineering and development work that would not be useful to or usable by any other supplier;

(c) Elaborate special tooling already acquired;

(d) Substantial time and effort already expended in developing a prototype or an initial production model; and

(e) Important design changes which will continue to be developed by the supplier.

The authority of this section will in general be used in situations where it is preferable to place a production contract with the supplier who had developed the equipment, and thereby either assure to the Government the benefit of the techniques, tooling, and equipment already acquired by that supplier, or avoid undue delay arising from a new supplier having to acquire such techniques, tooling, and equipment.

§ 853.214-3 *Limitation.* This authority shall not be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that:

(a) The supplies are of a technical or specialized nature requiring a substantial investment or an extended period of preparation for manufacture; and

(b) Procurement by formal advertising and competitive bidding either:

(1) May require duplication of investment or preparation already made, or

(2) Will unduly delay procurement.

§ 853.215 *Negotiation after advertising.*

§ 853.215-1 *Authorization.* Pursuant to the authority of section 2 (c) (15) of the act, purchases and contracts may be negotiated without formal advertising if: "for supplies or services as to which the Secretary determines that the bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition."

§ 853.215-2 *Limitation.* This authority shall not be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that the bid prices, after formal advertising for such supplies or services, are not reasonable or have not been independently arrived at in open competition. However, after such determination by the Secretary, and after a rejection of all bids, no contract shall be negotiated under this authority unless:

(a) Prior notice of intention to negotiate and a reasonable opportunity to negotiate have been given by a Contracting Officer to each responsible bidder whose bid has been rejected; and

(b) The negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the Secretary; and

(c) The negotiated price is the lowest negotiated price offered by any responsible supplier.

Moreover, any evidence of bids not independently arrived at shall be forwarded to the Department of Justice, as provided in § 852.403 of this subchapter.

§ 853.216 *Purchases in the interest of national defense or industrial mobilization.*

§ 853.216-1 *Authorization.* Pursuant to the authority of section 2 (c) (16) of the act, purchases and contracts may be negotiated without formal advertising if: "the Secretary determines that it is in the interest of the national defense that any plant, mine, or facility or any producer, manufacturer, or other supplier be made or kept available for furnishing supplies or services in the event of a national emergency, or that the interest either of industrial mobilization in case of such an emergency, or of the national defense in maintaining active engineering, research and development, are otherwise subserved."

§ 853.216-2 *Application.* This authority may be used to effectuate such plans and programs as may be evolved under the direction of the Secretary of a Department to provide incentives to manufacturers to maintain, and keep active, engineering and design staffs and manufacturing facilities available for mass production. The following are illustrative of circumstances with respect to which this authority may be used:

(a) Procurement by negotiation is necessary to keep vital facilities or suppliers in business; or to make them available in the event of a national emergency;

(b) Procurement by negotiation with selected suppliers is necessary in order to train them in the furnishing of critical supplies to prevent the loss of their ability and employee skills, or to maintain active engineering, research, or development work;

(c) Procurement by negotiation is necessary to maintain properly balanced sources of supply for meeting the requirements of procurement programs in the interest of industrial mobilization.

§ 853.216-3 *Limitation.* This authority shall not be used unless and until the Secretary of a Department has determined, in accordance with the requirements of Subpart C of this part, that:

(a) It is in the interest of national defense that a particular facility or supplier be made or kept available for furnishing supplies or services in the event of a national emergency, and procurement by negotiation is necessary to that end; or

(b) The interest of industrial mobilization, in the event of a national emergency, would be promoted by procure-

ment by negotiation with such a supplier; or

(c) In maintaining active engineering, research, and development, the interest of the national defense would be promoted by procurement by negotiation with such a supplier.

§ 853.216-4 *Records and reports.* Each Department shall maintain a record of the name of each contractor with whom a contract has been entered into pursuant to the authority of this section, together with the amount of the contract and (with due consideration given to the national security) a description of the work required to be performed thereunder, and shall prepare a report thereon, at the end of the current fiscal year (covering that portion of the current fiscal year during which this subchapter is effective) and at the end of each six-month period thereafter, and in the form and manner to be prescribed by the Department, to be submitted to the Munitions Board in the National Military Establishment for the preparation of a combined Armed Services report to be submitted semi-annually to the Congress.

§ 853.217 *Otherwise authorized by law.*

§ 853.217-1 *Authorization.* Pursuant to the authority of section 2 (c) (17) of the act, purchases and contracts may be negotiated without formal advertising if: "otherwise authorized by law."

§ 853.217-2 *Application.* This authority shall be used only if and to the extent approved for any Department in accordance with procedures prescribed by that Department.

§ 853.218 *Construction work.*

§ 853.218-1 *Authorization.* As provided in section 2 (e) of the act, contracts for construction work may be negotiated without formal advertising if the following two requirements have been satisfied:

(a) The contract is for: "the erection, repair, or furnishing of any public building or public improvement \* \* \* or the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items"; and

(b) Either (1) "the contract is to be performed outside the continental United States" or (2) "negotiation of such contract is authorized by the provisions of paragraph (1), (2), (3), (10), (11), (12), or (15) of subsection (c)" of section 2 of the act.

§ 853.218-2 *Limitation.* This authority shall be used only when the requirements set forth in the preceding § 853.218-1 have been satisfied, and when all provisions of any applicable paragraph of the act (as implemented and construed, in terms of policy, by the respective preceding sections of Subpart C of this part relating thereto) have been complied with.

SUBPART C—DETERMINATIONS AND FINDINGS

§ 853.300 *Scope of subpart.* This subpart (a) enumerates the particular determinations and findings to be made (1) by the Secretary of any Department, (2)



by the head of any procuring activity signing as "a chief officer responsible for procurement," and (3) by a Contracting Officer; and (b) sets forth the requirements to be followed with respect to such determinations and findings.

§ 853.301 *Nature of determinations and findings.* The determinations and supporting findings that are referred to throughout this subchapter, usually as prerequisites to the authority of a procuring activity to enter into contracts by negotiation or to make advance payments under negotiated contracts, will in most instances be made by the Secretary of a Department. Such determinations and findings shall ordinarily be made only with respect to individual purchases or contracts, but may be made with respect to classes of purchases or contracts in special cases and then only for a specified period and in accordance with procedures prescribed by each respective Department. Certain determinations, as hereinafter provided, may be made by the head of a procuring activity signing as "a chief officer responsible for procurement" or by a Contracting Officer, but in either of these two cases only with respect to individual purchases or contracts.

§ 853.302 *Determinations and findings by the Secretary of a Department.* The following determinations, and written findings in support thereof, may be made only by the Secretary of a Department, and are not delegated hereunder except to the extent provided in § 853.303:

(a) The determination required by § 853.211 with respect to any negotiated contract for experimental, developmental, or research work or for the manufacture or furnishing of supplies for experimentation, development, research, or test;

(b) The determination required by § 853.212 with respect to any negotiated contract that should not be publicly disclosed;

(c) The determination required by § 853.213 with respect to any negotiated contract for technical equipment requiring standardization and interchangeability of parts;

(d) The determination required by § 853.214 with respect to any negotiated contract for technical or specialized supplies requiring a substantial initial investment or an extended period of preparation for manufacture;

(e) The determination required by § 853.215 with respect to any negotiated contract entered into after advertising has proved unsatisfactory;

(f) The determination required by § 853.216 with respect to any negotiated contract entered into in the interest of national defense or industrial mobilization;

(g) The determination required in Subpart E of this part with respect to advance payments under any negotiated contract.

In addition to the foregoing determinations, the Secretary of any Department may also make any of the determinations, and written findings in support thereof, that may be made by the head of any procuring activity signing as "a

chief officer responsible for procurement" or by a Contracting Officer.

§ 853.303 *Determinations and findings by the head of a procuring activity signing as "a chief officer responsible for procurement."* The following determinations, and written findings in support thereof, may be made by the head of a procuring activity signing as "a chief officer responsible for procurement":

(a) The determination required by § 853.211 with respect to any negotiated contract for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test: *Provided*, That such contract does not obligate the Government to pay more than \$25,000; and

(b) The determinations required by §§ 853.404, 853.405, and 853.406 with respect to the use of a cost or a cost-plus-a-fixed-fee contract or an incentive-type contract.

§ 853.304 *Determinations and findings by a contracting officer.* To the extent that the authority has been or may be granted by procedures prescribed by each respective Department, the determinations required by §§ 853.404, 853.405, and 853.406 with respect to the use of a cost or a cost-plus-a-fixed-fee contract or an incentive-type contract may be made by a Contracting Officer: *Provided*, That any such determination shall be based upon written findings made by the Contracting Officer.

§ 853.305 *Forms of determinations and findings.* Each determination and findings—whether for (a) "Authority to Negotiate an Individual Contract," or (b) "Authority to Negotiate a Class of Contracts," or (c) "Advance Payments," or (d) "Method of Contracting," or (e) any other purpose—shall be prepared in accordance with procedures prescribed by each respective Department.

§ 853.306 *Procedure with respect to determinations and findings.* Each determination and findings shall be approved and processed in accordance with procedures prescribed by each respective Department.

§ 853.307 *Distribution of copies of determinations and findings.* Copies of each determination and findings shall be distributed in accordance with procedures prescribed by each respective Department: *Provided*, That one copy thereof with respect to (a) negotiated contracts (whether by individual contract or by class of contracts), (b) advance payments, and (c) the use of a cost or a cost-plus-a-fixed-fee contract or an incentive-type contract, shall be sent to the General Accounting Office with the copy of the contract negotiated and executed thereunder.

§ 853.308 *Retention of copies of determinations and findings, and of other records.* Executed originals of all determinations and findings, and copies of all supporting documents, shall be preserved in the cognizant procuring activity or in the Department concerned for six years following the date of each respective determination. Complete records with respect to all negotiated contracts shall be

preserved in the cognizant procuring activity or in the Department concerned for a period of six years following final payment on each such respective contract.

#### SUBPART D—TYPES OF CONTRACTS

§ 853.400 *Scope of subpart.* This subpart (a) describes approved types of contracts authorized for procurement by negotiation, and (b) imposes conditions on the use of each type.

§ 853.401 *Authorized types of contracts.* Pursuant to the authority of section 4 of the act, contracts negotiated under this part may be of any type which will promote the best interests of the Government, except that under no circumstances shall the cost-plus-a-percentage-of-cost system of contracting be used, or allowed to be used for any sub-contract under a Department contract. In accordance with the basic policy set forth in § 851.304 of this subchapter, the fixed-price type of contract shall be used for negotiated contracts unless conditions necessitate the use of some other type of contract; however, the cost or cost-plus-a-fixed-fee type of contract or the incentive-type of contract shall not be used except upon compliance with all of the applicable requirements of this subpart.

§ 853.402 *Fixed-price contract.* The fixed-price type of contract generally provides for a firm price or prices for the supplies or services which are being procured. This type of contract is used when costs can be estimated with reasonable accuracy and a fair price negotiated. It may include provision for price escalation or adjustment.

§ 853.403 *Fixed-price contract with provision for redetermination of price.* This type of contract is a fixed-price contract with a special provision for redetermining upward or downward the price or prices in the contract. It is used to obtain reasonable prices whenever contingency charges otherwise would be included in a contract price due to such factors as prolonged delivery schedules, unstable market conditions for material or labor, or uncertainty as to cost to performance. By this type of contract, the Government assumes the risk of certain contingencies which a contractor would otherwise assume and would include in his contract price, and the contract price is ultimately redetermined only to the extent that such contingencies actually occur. This type of contract is also used to assure to the Government the benefits of reduced costs of performance. When a fixed-price contract contains a redetermination provision of the incentive-type, it shall be deemed to be an incentive-type contract within the meaning of § 853.404.

§ 853.404 *Incentive-type contract.* The incentive-type contract may be of either a fixed-price or a cost-plus-a-fixed-fee nature, with a special provision for redetermination of the fixed price or fixed fee. It provides for a tentative base price or target price (called the "contract price") and a maximum price or maximum fee, with price or fee redetermination after completion of the contract for the purpose of establishing a final price



or fee based on the contractor's actual costs plus a sliding scale of profit or fee which varies inversely with the cost but which in no event shall permit the final price or fee to exceed the maximum price or fee stated in the contract. Use of the incentive-type contract is usually restricted to instances when the procurement of supplies or services involves a reasonably long production run, when the contractor has an acceptable accounting system and adequate manufacturing experience, and when a reasonably close "contract price" can be negotiated.

§ 853.404-1 *Limitation on use of incentive-type contract.* The incentive-type contract shall be used only after a determination, in accordance with the requirements of Subpart C of this part, that:

(a) Such method of contracting is likely to be less costly than other methods, or

(b) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 853.405 *Cost contract.* The cost (or cost-sharing) type of contract provides for payment to the contractor of allowable costs, to the extent prescribed in the contract, incurred in the performance of the contract. This type of contract establishes an estimate of the total cost for purposes of (a) obligating current funds and (b) establishing a ceiling beyond which the contractor cannot go (except at his own expense) without prior approval of the Contracting Officer. It may provide for a predetermined fixed (or provisional) overhead rate, usually to be redetermined at stated intervals.

§ 853.405-1 *Limitation on use of cost contract.* The cost type of contract shall be used only after a determination, in accordance with the requirements of Subpart C of this part, that:

(a) Such method of contracting is likely to be less costly than other methods, or

(b) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 853.406 *Cost-plus-a-fixed-fee contract.* The cost-plus-a-fixed-fee type of contract is similar to the cost contract in that it provides for payment to the contractor of all allowable costs as defined in the contract and establishes an estimate of the total cost. It differs from the cost contract in that it also provides for payment of a fixed fee based on the estimated cost of the contract. This fixed fee shall not vary with actual cost (except in the case of an incentive-type contract), but only with a change in the estimated cost as a result of a change in the scope of work under the contract. This type of contract may provide for a predetermined fixed (or provisional) overhead rate, usually to be redetermined at stated intervals.

§ 853.406-1 *Limitation on use of cost-plus-a-fixed-fee contract.* The cost-plus-a-fixed-fee type of contract shall be used only after a determination, in accordance with the requirements of Subpart C of this part, that:

(a) Such method of contracting is likely to be less costly than other methods, or

(b) It is impractical to secure supplies or services of the kind or quality required without the use of such type of contract.

§ 853.406-2 *Limitations on fixed fee.* The fixed fee shall be negotiated by the parties, but shall not exceed (except to the extent approved by the Secretary of the Department concerned within the limits imposed by section 4 (b) of the act) seven per centum (7%) of the estimated cost of the contract, exclusive of fee: *Provided*, That a fee not in excess of ten per centum (10%) of such estimated cost is authorized in the case of any contract for experimental, developmental, or research work. In a cost-plus-a-fixed-fee contract for architectural or engineering services relating to any public work or utility project, there is authorized for such services a fixed fee which, together with the costs of such services, shall not exceed six per centum (6%) of the estimated cost of such project (exclusive of the fixed fee for the project).

§ 853.407 *Time and materials contract.* The time and materials type of contract provides for the purchase of supplies or services on the basis of (a) direct labor hours at specified hourly rates (which rates include direct labor, overhead, and profit) and (b) material at cost. This type of contract shall not be used if any other type of contract is equally advantageous to the Government. Representative situations where this type of contract might be used are contracts for engineering and design services in connection with the production of supplies, contracts for repair, maintenance, or overhaul, and contracts for the production of supplies in special cases of emergency.

§ 853.408 *Letter contract or letter of intent.* A letter contract or letter of intent is a preliminary contract with a tentative price or specific amount agreed to therein, and with such other basic terms set forth therein as can be agreed to at that time. It authorizes the contractor to commence work, incur costs, and make commitments pending negotiation and execution of the final definitive contract. It obligates the Government either to make a final definitive contract within a specified time or to reimburse the contractor for costs incurred under the letter contract or letter of intent. This type of contract shall be used, subject to such approval as is required by the procedures of each respective Department, only when one of the following conditions exists:

(a) When it is essential to give to the contractor a binding commitment in order to permit him to commence work immediately; or

(b) When the nature of the work involved prevents the preparation of definitive requirements or specifications, thereby making it impossible to negotiate a final contract at that time.

The letter contract or letter of intent shall be superseded as soon as possible by a final definitive contract.

§ 853.409 *Other types of contracts.* In addition to the types of contracts de-

scribed in the preceding sections, contracts may be of any type or nature referred to in the definition of "contracts" in § 851.201-6 of this subchapter, and also may be of the call type, open-end type, or indefinite quantity type.

§ 853.410 *Books and records of cost-type contractors.* Pursuant to the authority of section 4 (b) of the act, any procuring activity, through any authorized representative thereof, shall have the right to inspect the plants and to audit the books of any prime contractor or subcontractor engaged in the performance of a cost or a cost-plus-a-fixed-fee contract. This authority is in addition to any other right of inspection or audit conferred by statute.

§ 853.411 *Contract forms and provisions.* The forms and provisions of contracts shall conform to the requirements of law, of this subchapter, and of procedures prescribed by each respective Department. However, all cost and cost-plus-a-fixed-fee contracts shall provide for advance notification by the contractor to the procuring activity, or to the Department concerned, of any subcontract thereunder on a cost-plus-a-fixed-fee basis and of any fixed-price subcontract or purchase order which exceeds in dollar amount either \$25,000 or five per centum (5%) of the total estimated cost of the prime contract.

#### SUBPART E—ADVANCE PAYMENTS

§ 853.500 *Scope of subpart.* This subpart sets forth (a) the nature of advance payments, (b) the authority for making advance payments, and (c) the limitations on such authority.

§ 853.501 *Nature of advance payments.* Advance payments shall be deemed to be payments made by the Government to a contractor in the form of loans or advances prior to and in anticipation of complete performance under a contract. Advance payments are to be distinguished from "partial payments" and "progress payments" and other payments made because of performance or part performance of a contract.

§ 853.502 *Authority to make advance payments.* Pursuant to the authority of section 5 of the act, advance payments may be made under negotiated contracts executed before or after the effective date of this subchapter in any amount not exceeding the contract price and upon such terms as the parties shall agree: *Provided*:

(a) Adequate security for such advance payments is obtained;

(b) Provision for advance payments is in the public interest or in the interest of national defense, as determined by the Secretary of a Department in accordance with the requirements of Subpart C of this part; and

(c) Provision for advance payments is necessary and appropriate in order to procure the required supplies or services, as determined by the Secretary of a Department in accordance with the requirements of Subpart C of this part.

§ 853.503 *Limitations on authority to make advance payments.* Advance payments shall not be authorized unless all



of the following requirements are satisfied:

(a) No other contractor is available to furnish the desired supplies or services, upon terms satisfactory to the Department, without provision for advance payments;

(b) Except for non-profit research and development contracts with educational institutions, no other means of adequate financing is available to the contractor;

(c) The amount of the authorization is predicated upon use of the contractor's own working capital to the extent possible.

§ 853.504 *Security provisions.* The advance payment agreement should provide for deposit of all payments into special bank accounts and should include suitable covenants to protect the Government's interest. Advance payments under such authorizations should be limited to the contractor's financial needs, and withdrawals from the special bank accounts provided therefor should be closely supervised. The terms governing advance payments may include as security, in addition to or in lieu of the requirements for an advance payment bond, provision for a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited, and upon such of the material and other property acquired for performance of the contract as the parties shall agree.

§ 853.505 *Interest on advance payments.* Whenever an advance payment is made to a contractor, interest will be charged (usually at the rate of 2½ percent per annum on the unliquidated balance), except that advance payments may be made without interest in either of the following situations:

(a) Advance payments authorized in connection with contracts which provide for performance at cost, or without profit or fee to the contractor; or

(b) Advance payments to be made without interest as authorized by the Secretary of a Department.

[F. R. Doc. 48-5169; Filed, June 8, 1948; 8:55 a. m.]

## TITLE 15—COMMERCE

### Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

PART 329—DELEGATIONS OF AUTHORITY FOR THE OFFICE OF DOMESTIC COMMERCE

PART 330—GENERAL ORGANIZATION AND FUNCTIONS

PART 334—PROCEDURAL RULES

PART 336—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

PART 338—MATERIALS ORDERS

NOTICE OF ACTIONS CONTINUED IN EFFECT UNDER THE SECOND DECONTROL ACT, AS EXTENDED, JUNE 4, 1948

(a) Public Law 606, 80th Congress, approved June 4, 1948, continues to June 30,

1949, certain of the allocation and priorities powers of the President exercised under the Second Decontrol Act of 1947 (Pub. Law 188, 80th Congress), which is an extension of the Second War Powers Act, 1942. Section 2 of Public Law 606 provides that its provisions shall take effect as of the close of May 31, 1948, and that "all regulations, orders, directives, directions, requirements, and delegations issued under the Second War Powers Act, 1942, as amended, which were in effect on May 31, 1948, shall be in effect in the same manner and to the same extent as if this Act had been enacted on May 31, 1948."

(b) In connection with the operations of the Office of Domestic Commerce, Department of Commerce, under the Second Decontrol Act, the following were in effect on May 31, 1948, and continue in effect pursuant to Public Law 606:

Part 329 Materials Control Regulation 1.  
Materials Control Regulation 2.  
Part 330 General Organization and Functions.  
Part 334 Procedural Document 2.  
Part 336 Allocations Regulation 1.  
Allocations Regulation 2, Direction 1.  
Allocations Regulation 2, Direction 2.  
Allocations Regulation 2, Direction 4.  
Allocations Regulation 3.  
Part 338 Conservation Order M-43.  
Conservation Order M-81.  
Conservation Order M-112.

NOTE: Rubber Order R-1 is not included in the above listing since it is issued under the Rubber Act of 1948, and not the Second Decontrol Act.

(c) All authorizations and other individual actions which were issued or taken in connection with the above and which were in effect on May 31, 1948, are hereby confirmed and continue in effect in accordance with their terms.

(d) Public Law 606 did not extend the previous allocation powers over cinchona bark, quinine and quinidine. Therefore, Conservation Order M-131 (Cinchona Bark and Quinidine) does not continue in effect after May 31, 1948 and is being formally revoked as of that date.

(Pub. Law 606, 80th Cong.)

Issued this 7th day of June 1948.

H. B. McCoy,  
Director,  
Office of Domestic Commerce.

[F. R. Doc. 48-5196; Filed, June 8, 1948; 9:29 a. m.]

## TITLE 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

APPLICATION AND CLOSING OUT OF OFFSETTING LONG AND SHORT POSITIONS

By virtue of the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended

(42 Stat. 998, 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, Pub. Law 392, 80th Cong., approved December 19, 1947; 7 U. S. C. 1-17a), Part 1 of Chapter I of Title 17, Code of Federal Regulations, as amended May 3, 1948 (13 F. R. 2426), is hereby further amended by deleting § 1.46 and substituting in lieu thereof the following:

§ 1.46 *Application and closing out of offsetting long and short positions—(a) Application of purchases and sales.* Any futures commission merchant who, on or subject to the rules of a contract market:

(1) Shall purchase any commodity for future delivery for the account of any customer (other than the "Customers' Account" of another futures commission merchant) when the account of such customer at the time of such purchase has a short position in the same future of the same commodity on the same market, or

(2) Shall sell any commodity for future delivery for the account of any customer (other than the "Customers' Account" of another futures commission merchant) when the account of such customer at the time of such sale has a long position in the same future of the same commodity on the same market,

shall on the same day apply such purchase or sale against such previously held short or long position, as the case may be, and shall promptly furnish such customer a purchase and sale statement, or account sale, showing the financial result of the transactions involved.

(b) *Customer's instructions.* In all instances wherein the short or long position in such customer's account immediately prior to such offsetting purchase or sale is greater than the quantity purchased or sold, the futures commission merchant shall apply such offsetting purchase or sale to such portion of the previously held short or long position as may be specified by the customer. In the absence of specific instructions from the customer, the futures commission merchant shall apply such offsetting purchase or sale to the oldest portion of the previously held short or long position, as the case may be.

(c) *In-and-out trades; day trades.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, this section shall not be deemed to require the application of purchases or sales closed out during the same day (commonly known as "in-and-out trades" or "day trades") against short or long positions carried forward from a prior date.

(d) *Exceptions.* The provisions of this section shall not apply to:

(1) Purchases or sales of job lots against positions in round lots, nor to purchases or sales of round lots against positions in job lots, on markets where round lots and job lots are cleared separately;

(2) Purchases or sales constituting "bona fide hedging transactions" as defined in section 4a (3) of the Commodity Exchange Act; nor

(3) Sales during a delivery period for the purpose of making delivery during



such delivery period if such sales are accompanied by instructions to make delivery thereon, together with warehouse receipts or other documents necessary to effectuate such delivery. (42 Stat. 998, 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, Pub. Law 392, 80th Cong.; 7 U. S. C. 1-17a)

The purpose of this amendment is to clarify the regulation as originally issued May 3, 1948, and its adoption cannot adversely affect the public. Therefore, it is found upon good cause that notice and public procedure on this amendment are unnecessary, and it should be made effective within less than thirty days after publication thereof.

This amendment shall become effective June 8, 1948.

Issued this 3d day of June 1948.

[SEAL] CHARLES F. BRANNAN,  
Secretary of Agriculture.

[F. R. Doc. 48-5100; Filed, June 8, 1948;  
8:48 a. m.]

## TITLE 25—INDIANS

### Chapter I—Office of Indian Affairs, Department of the Interior

#### Subchapter L—Irrigation Projects: Operation and Maintenance

#### PART 130—OPERATION AND MAINTENANCE CHARGES

##### FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

On April 29, 1948 there was published in the daily issue of the FEDERAL REGISTER (13 F. R. 2313) a notice of intention to modify §§ 130.24, 130.26 and 130.28 prescribing annual operation and maintenance assessments applicable to lands within the jurisdiction of three irrigation districts on the Flathead Indian irrigation project, Montana. Interested persons were thereby given opportunity to participate in preparing the proposed amendments by submitting their views and data or arguments within 30 days from the date of the publication of the notice. No comments, oral or written, having been received within the prescribed period, the said sections have been amended and are published as follows, effective for the calendar year 1949 and thereafter until further notice:

§ 130.24 *Charges*. Pursuant to a contract executed by the Flathead irrigation district, Flathead Indian irrigation project, Montana, on May 12, 1928, as supplemented by later contracts dated February 27, 1929, March 28, 1934, and August 26, 1936, notice is hereby given of intention to fix an assessment of \$146,900 for the season of 1949 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines of and under the jurisdiction of the Flathead irrigation district. This assessment involves an area of approximately 67,485.6 acres; does not include any land held in trust for Indians, and covers all proper general charges and project overhead.

No. 112—4

§ 130.26 *Charges*. Pursuant to a contract executed by the Mission irrigation district, Flathead Indian irrigation project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented by later contracts dated June 2, 1934 and August 26, 1936, notice is hereby given of intention to fix an assessment of \$28,100 for the season of 1949 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines of, and under the jurisdiction of the Mission irrigation district. This assessment involves an area of approximately 12,534.2 acres; does not include any land held in trust for Indians, and covers all proper general charges and project overhead.

§ 130.28 *Charges*. Pursuant to a contract executed by the Jocko Valley irrigation district, Flathead Indian irrigation project, Montana, on November 13, 1934, approved by the Secretary of the Interior on February 26, 1935, as supplemented by a later contract dated August 26, 1936, notice is hereby given of intention to fix an assessment of \$10,300 for the season of 1949 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines of, and under the jurisdiction of, the Jocko Valley irrigation district. This assessment involves an area of approximately 5,388.3 acres; does not include any land held in trust for Indians, and covers all proper general charges and project overhead. (38 Stat. 583, 39 Stat. 142, 45 Stat. 212, 46 Stat. 291; 25 U. S. C. 385, 387)

PAUL L. FICKINGER,  
Regional Director,  
Region No. 2.

[F. R. Doc. 48-5105; Filed, June 8, 1948;  
8:49 a. m.]

## TITLE 26—INTERNAL REVENUE

### Chapter I—Bureau of Internal Revenue, Department of the Treasury

#### Subchapter C—Miscellaneous Excise Taxes [T. D. 5619]

#### PART 189—BOTTLING OF TAX-PAID DISTILLED SPIRITS

##### RECORDS AND REPORTS

1. On March 24, 1948, notice of proposed rule making, regarding bottling of tax-paid distilled spirits, was published in the FEDERAL REGISTER (12 F. R. 1564). No objections to the rules proposed having been received, the following amendments of §§ 189.131 and 189.135 of Regulations 11 are hereby adopted. Such amendments are necessary in order to provide the Commissioner with a copy of Form 52-D, "Monthly Record and Report of Tax-Paid Bottling House Operations," as a necessary aid in the control of operations of tax-paid bottling houses and to make available required statistical information.

2. Sections 189.131 and 189.135 of Regulations 11, "Bottling of Tax-Paid Distilled Spirits," approved May 20, 1940 (26 CFR, Part 189) are hereby amended to read as follows:

##### PROPRIETOR'S RECORDS AND REPORTS

§ 189.131 *Record; Form 52-D*. Every proprietor of a tax-paid bottling house shall keep a record and render a monthly report, in duplicate, on Form 52-D, "Monthly Record and Report of Tax-Paid Bottling House Operations," of all distilled spirits received, dumped for bottling, bottled, and disposed of at his bottling house. (Secs. 2803, 2871, 3176, I. R. C.)

§ 189.135 *Reports*. Except as otherwise provided herein the proprietor shall file, daily, full and complete transcripts, in duplicate, of Form 52-D (Part 3) on Form 52-D (Part 3) and full and complete transcripts of Record 52 on Forms 52-A and 52-B (one copy of each) with the district supervisor, by delivering or mailing them to such officer on the date the transactions entered therein occurred: *Provided*, That in any case in which the district supervisor shall direct, the transcripts shall be so filed with the investigator in charge instead of with the district supervisor. The transcripts shall bear the following certification signed by the person or officer authorized to execute Form 338 or 52-D:

I hereby certify that these transcripts, consisting of ---- pages disclose all the transactions which occurred during the period covered thereby, and that each entry is correct.

If in any case the district supervisor shall so authorize, the transcripts, in lieu of being filed daily, may be filed with him on or before the 10th day of the month succeeding the month in which the transactions occurred. In such event, transactions will be entered on Form 52-D and Record 52 in accordance with the provisions of section 189.133. A full and complete transcript, in duplicate, of Form 52-D (except Part 3 where such part is filed daily) shall be prepared and forwarded to the district supervisor on or before the 10th day of the month succeeding the month in which the transactions occurred. Where Record 52 is kept, a monthly summary report on Form 338 shall be prepared in duplicate, one copy of which will be retained on file and the original forwarded to the district supervisor on or before the 10th day of the month succeeding the month in which the transactions occurred. Records kept on Form 52-D and Record 52 shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts by the Commissioner or any internal revenue officer. (Secs. 2803, 2857, 2871, 3176, I. R. C.)

3. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER. (Secs. 2803, 2857, 2871, 3176, I. R. C. (26 U. S. C. 2803, 2857, 2871, 3176))

[SEAL] WM. SHERWOOD,  
Acting Commissioner.

Approved: May 28, 1948.

A. L. M. WIGGINS,  
Acting Secretary of the Treasury.  
[F. R. Doc. 48-5133; Filed, June 8, 1948;  
8:56 a. m.]



## TITLE 29—LABOR

## Chapter II—National Labor Relations Board

PART 201—DESCRIPTION OF ORGANIZATION  
REVISION OF PART

Pursuant to the provisions of section 3 (a) (1) of the Administrative Procedure Act (Pub. Law 404, 79th Cong.), the National Labor Relations Board hereby separately states and currently publishes in the FEDERAL REGISTER the following description of organization, both central and field, including delegations by the board of final authority and the places at which and methods whereby, the public may secure information or make submittals or requests.

Signed at Washington, D. C., this 1st day of June 1948.

[SEAL] NATIONAL LABOR RELATIONS BOARD,  
PAUL M. HERZOG,  
*Chairman.*  
JOHN M. HOUSTON,  
*Member.*  
JAMES J. REYNOLDS, Jr.,  
*Member.*  
ABE MURDOCK,  
*Member.*  
J. COPELAND GRAY,  
*Member.*

## SUBPART A—DESCRIPTION OF CENTRAL ORGANIZATION

Sec.

- 201.1 The Board.
- 201.2 The General Counsel.
- 201.3 The Board's staff.
- 201.4 The Washington staff under the General Counsel.

## SUBPART B—DESCRIPTION OF FIELD ORGANIZATION

- 201.5 Regional Offices; their staffs generally.
- 201.6 Regional Directors; their delegations of authority.
- 201.7 Chief Law Officers; their delegations of authority.
- 201.8 Field Examiners and Officers-in-Charge; their delegations of authority.
- 201.9 Field Attorneys; their delegations of authority.
- 201.10 Persons in "acting" capacity.

## SUBPART C—INFORMATION CONCERNING THE BOARD

- 201.11 Places and manner of obtaining information.

## SUBPART D—PLACES WHERE AND METHODS WHEREBY PUBLIC MAY MAKE SUBMITTALS OR REQUESTS

- 201.12 Submittals or requests respecting cases in Regional Offices before hearing.
- 201.13 Submittals or requests respecting cases in Regional Offices during hearing.
- 201.14 Submittals or requests respecting complaint cases after hearing but before Intermediate Report.
- 201.15 Submittals or requests respecting complaint cases pending in Washington and before decision by the Board.
- 201.16 Submittals or requests respecting representation cases pending in Washington and before decision by the Board.
- 201.17 Submittals or requests respecting all cases after Board decision.

Sec.

- 201.18 Requests for Board review of Regional Director's dismissal of charge or petition.
- 201.19 Other submittals or requests.

AUTHORITY: §§ 201.1 to 201.19, inclusive, issued under sec. 8 (a), 49 Stat. 452, 29 U. S. C. 156.

## SUBPART A—DESCRIPTION OF CENTRAL ORGANIZATION

§ 201.1 *The Board.* (a) The Board, composed of five Members, has its central and principal office in Washington, D. C. Each of the Members is appointed by the President, with the approval of the Senate, for a term of five years, except that of the two most recently appointed Members one has been appointed for a term of two years. One Member is designated by the President to serve as Chairman of the Board. The Board is created by virtue of the provisions of the National Labor Relations Act, 49 Stat. 449, as amended by the Labor Management Relations Act, 1947.

(b) The Board has two principal functions under the National Labor Relations Act, as amended: (1) The prevention of statutorily defined unfair labor practices on the part of employers and labor organizations or their agents, (2) the determination of employee representatives for purposes of collective bargaining, including the conduct of referenda to determine the authority of employee representatives to bargain for union security provisions under the proviso to section 8 (a) (3) of the act. Another function vested in the Board is the determination of any jurisdictional dispute which has given rise to an unfair labor practice charge. The Board is also required to conduct a poll of employees on their employer's last offer in certain types of disputes. It has also been delegated authority to enforce the labor-protection provisions of section 222 (f) of the Telegraph Merger Act, 57 Stat. 5, and to certify representatives of employees as bona fide for purposes of section 7 (b) of the Fair Labor Standards Act of 1938, 52 Stat. 29.

§ 201.2 *The General Counsel.* (a) The General Counsel of the Board derives specific authority for his functions from the provisions of the Labor-Management Relations Act, 1947. In addition, he derives certain other authority by delegation from the Board (13 F. R. 654). Under the act, the General Counsel is charged with the functions of exercising general supervision over attorneys employed by the Board (other than trial examiners and legal assistants to Board Members) and over the officers and employees in the regional offices. He has also final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10, and in respect of the prosecution of such complaints before the Board.

(b) Authority delegated to him by the Board includes seeking compliance with the Board's orders and applying to the courts for temporary restraining orders in appropriate situations; prosecuting appeals; processing petitions filed pursuant to section 9 of the National Labor Relations Act, as amended, subject to the

Board's regulations; and processing employee referenda under sections 209 (b) and 203 (c) of the act or an employer's last offer of settlement. Appeals from the refusal of the General Counsel to issue notices of hearing on any petition under section 9 of the act or from his dismissal thereof will be decided by the Board. In connection with jurisdictional disputes and the performance of all functions necessary to the accomplishment of the provisions of section 10 (k) of the act and of the prosecution of injunction proceedings under section 10 (j) and (1), the General Counsel is delegated full and final authority for the initiation and prosecution of such proceedings. The Board has also delegated to the General Counsel final authority and responsibility to receive affidavits under section 9 (h) of the act, to maintain an appropriate file thereof, and to make available to the public, on such terms as he may prescribe, appropriate information concerning such affidavits, but not to make such files open to unsupervised inspection.

§ 201.3 *The Board's staff.* The Board's staff (not under the general supervision of the General Counsel) consists of an Executive Secretary, and his assistant, the Order Section, a Solicitor and his staff, legal assistants attached to the office of each of the five Board Members, a Director of Information, and the Trial Examiners Division.

(a) *The Executive Secretary.* The Executive Secretary is chief administrative and management officer of the Board. He also represents the Board in its dealings with parties to cases and in its relations to Members and Committees of Congress. He is authorized as the Board's agent to prepare and sign formal orders and certifications at the direction of the Board. He is aided by an Assistant Executive Secretary.

(b) *The Solicitor.* The Solicitor serves as the Board's legal officer and adviser. He is aided by an Assistant Solicitor.

(c) *Legal assistants.* Each of the five Board Members has a small staff of attorneys, under the general direction of a Chief Legal Assistant, to assist him in reviewing transcripts of hearings and preparing drafts of opinions.

(d) *The Director of Information.* The Director of Information affords information to members of the general public who wish to be informed concerning the Board, the General Counsel's office, and the status of cases. He also acts as liaison with the press and prepares press and other types of public releases.

(e) *The Trial Examiners' Division.* Headed by the Chief Trial Examiner, this Division supervises the functions of the Trial Examiners, who are responsible for the conduct of all hearings and for the preparation of all Intermediate Reports (recommended decisions) in unfair labor practice and Telegram Merger Act cases. The Chief Trial Examiner, assisted by two Associate Chief Trial Examiners, has final authority to designate Trial Examiners to conduct hearings upon complaints, to approve dates scheduled for such hearings by the Regional Offices, to order the hearings reopened before issuance of Intermediate Reports, and to



rule upon requests for extensions of time within which to file briefs, proposed findings and conclusions.

The Trial Examiners have the authority, with respect to cases assigned to them, between the opening of the hearing and the issuance of the Intermediate Report or transfer of the case to the Board, subject to the published rules and regulations of the Board and within its powers:

(1) To administer oaths and affirmations;

(2) To grant applications for subpoenas authorized by law;

(3) To rule upon petitions to revoke subpoenas;

(4) To rule upon offers of proof and receive relevant evidence;

(5) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(6) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all testimony of witnesses refusing to answer any proper question;

(7) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(8) To dispose of procedural requests or similar matters, including motions referred to the Trial Examiner by the Regional Director and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened prior to issuance of Intermediate Reports (recommended decisions).

(9) To make and file Intermediate Reports in conformity with section 8 of the Administrative Procedure Act and the rules and regulations of the Board;

(10) To call, examine and cross-examine witnesses and to introduce into the record documentary or other evidence.

(11) To take any other action necessary under the foregoing and authorized by the published rules and regulations of the Board.

(f) *The Appeals Committee.* In addition to the foregoing, the Board has established an Appeals Committee consisting of the Chief Legal Assistants of the five Board Members. The Committee's functions are, with the assistance of legal assistants to Board Members, and the advice of a member of the staff of the Executive Secretary and of the Solicitor, to review and advise the Board regarding appeals taken by aggrieved parties from refusals of the General Counsel to issue notices of hearing in cases arising under section 9, or from his dismissal thereof. Final action thereon is taken by the Board Members.

(g) *The Order Section.* Headed by the Executive Secretary, this Section issues and serves upon parties to cases all Board decisions and orders and has authority to certify copies of all papers and documents which are a part of the Board's files or records.

§ 201.4 *The Washington staff under the General Counsel.* The Washington staff under the General Counsel is made up of four main divisions whose functions fall broadly under the supervision of four officers. These are: A Director of Ad-

ministration, an Associate General Counsel for Division of Standards and Policies, an Associate General Counsel for Division of Operations, and an Associate General Counsel in charge of the Division of Law. There is also a Special Assistant to the General Counsel.

(a) *Special Assistant to the General Counsel.* The Special Assistant to the General Counsel assists him in all phases of administrative, legislative and liaison activities. He represents the General Counsel in contact with Members of Congress, officials of other Government Agencies and with labor-management relations officials of the States and serves as liaison between them and the General Counsel. He also performs special confidential and other duties for the General Counsel. There is not delegated to him any final authority with respect to his duties.

(b) *The Director of Administration.* The Director of Administration is responsible generally for the administrative management, service and fiscal functions of the General Counsel. His activities are carried out with the assistance of sections dealing with personnel, budget, fiscal and office services, and administrative statistics. Many of these functions are also performed in behalf of the Board and its Members, and upon their request.

(c) *Associate General Counsel for the Division of Standards and Policies.* The Associate General Counsel for the Division of Standards and Policies is responsible for developing technical and professional standards and policies used in field investigative and trial operations and for preparing in such connection appropriate instructional material for the staff; for analyzing appeals to the General Counsel from dismissals of complaint cases by regional directors; and for analyzing and presenting to the General Counsel all cases submitted by regional directors for advice. He also initiates and drafts proposals for appropriate amendments to legislation, policies, practices, procedures and the Board's rules and regulations.

(d) *Associate General Counsel for the Division of Operations.* The Associate General Counsel for the Division of Operations is responsible for the effective operation and administration of the regional and sub-regional offices of the agency including the prompt and adequate investigation of all cases before formal action and for the full, adequate and impartial preparation of cases for trial. He directs the activities of Regional Directors and maintains contact with the Regional Offices, for the General Counsel, through appropriate deputies. With respect to personnel in the field offices, he recommends appointment, transfer, promotion, demotion, and separation.

(e) *Associate General Counsel for the Division of Law.* The Associate General Counsel who heads the Division of Law is responsible for all legal services required in discharging the legal functions of the General Counsel, whether authorized by statute or delegated by the Board, including those requiring action in the Federal and State courts, enforcement and review of Board orders, injunction proceedings and other litigation. In

such connection, there are performed under his direction such functions as the preparation of records to the various courts, pleadings, briefs, stipulations, decrees and other legal documents. He is aided by one or more Assistant General Counsels and a staff of attorneys.

#### SUBPART B—DESCRIPTION OF FIELD ORGANIZATION

§ 201.5 *Regional Offices; their staffs generally.* There are established 19 Regional Offices located in the continental United States. Certain of the larger geographical regions have sub-offices in addition to the central regional office. The areas constituting the regions, and the locations of the regional and sub-regional offices, are set forth in an Appendix hereto. Assigned to each regional office are a Regional Director, Chief Law Officer, Field Examiners, Field Attorneys, and a clerical staff. Each sub-regional office is headed by an Officer-in-Charge. The Regional Director is the chief officer of the General Counsel in the region and responsible for the operation of the office.

§ 201.6 *Regional Directors; their delegations of authority.* Under the general supervision and direction of the General Counsel the Regional Directors have the following authority:

(a) To receive charges and petitions, to have access to and the right to copy evidence, to administer oaths and affirmations, to examine witnesses, to receive evidence, and to permit the withdrawal of charges and petitions;

(b) To issue, cause to be served, amend and withdraw complaints and Notices of Hearing, and to dismiss complaints where withdrawal of the charges on which they are based has been permitted; also to receive responsive pleadings;

(c) To decline to issue a complaint or a Notice of Hearing, subject to the right of the aggrieved party, in the case of a complaint, to appeal to the General Counsel, and in the case of a Notice of Hearing in a representation case, to appeal to the Board.

(d) To initiate discussion of, and receive and consider, facts, arguments, offers of settlement or proposals of adjustment, except where time, the nature of the proceedings, and the public interest do not permit, and

(1) Respecting cases in any stage of informal or investigative proceedings, to effect compliance with the statutes administered by the Board and to negotiate and enter into agreements and stipulations relating thereto, subject to the approval of the General Counsel;

(2) Respecting cases in any stage of formal proceedings, to effect compliance with the statutes administered by the Board and to negotiate and enter into agreements and stipulations relating thereto, subject to the approval of the Board.

(e) To grant applications for subpoenas, to receive and rule upon or refer to the hearing officer or the Board motions to revoke subpoenas in representation cases; to receive and refer to the Trial Examiner or the Board motions to revoke subpoenas in complaint cases; and to receive and rule upon or refer to the



## RULES AND REGULATIONS

Trial Examiner or hearing officer, as the case may be, or, if appropriate, to the Board, all other motions, applications or requests made prior to formal hearing;

(f) Upon direction of the Board, to conduct secret ballots among employees to determine representation for collective bargaining;

(g) To conduct secret ballots among employees to determine the authority of their collective bargaining representatives to bargain for union security provisions under the proviso to section 8 (a) (3) of the act;

(h) To make preliminary rulings and recommendations and issue reports with respect to challenged ballots and objections to elections;

(i) To issue Rules to Show Cause and to receive responsive pleadings thereto, in proceedings to certify representatives of employees as bona fide for purposes of section 7 (b) of the Fair Labor Standards Act;

(j) To conduct hearings in proceedings under section 9 of the National Labor Relations Act and section 7 (b) of the Fair Labor Standards Act;

(k) To approve agreements and stipulations providing for the holding of consent elections and for final determination by the Regional Director, in accordance with the rules and regulations of the Board, of all questions arising thereunder, including challenges and objections to the conduct of the election; to issue, pursuant thereto, statements or reports of facts ascertained after such consent elections; to investigate and issue final rulings upon challenges or objections to the election filed by any party to such agreements and stipulations; and to certify the results of the election, including certification of representatives where appropriate, such certification to be regarded as certification by the Board particularly, but not exclusively, within the meaning of section 8 (b) (4) of the National Labor Relations Act.

(l) To perform all other and necessary acts required of the Regional Director in connection with the foregoing and the published rules and regulations of the Board.

**§ 201.7 Chief Law Officers; their delegations of authority.** The Chief Law Officer in each of the Regional Offices is the chief legal adviser and attorney to the Regional Director. Under the general direction of the Regional Directors, they perform the following functions:

(a) Render all necessary legal services for the Regional Director in connection with the operations of the Regional Office, prosecute any inquiry necessary to the functions of the Board, have access to and the right to copy evidence, administer oaths and affirmations, examine witnesses and receive evidence;

(b) Appear and participate as counsel for the Board in Board hearings and upon assignment, in other litigation and proceedings;

(c) File exceptions to Intermediate Reports (recommended decisions) of Trial Examiners;

(d) Respecting cases in any stage of formal proceedings, receive and consider facts, arguments, offers of settlement or

proposals of adjustment, except where time, the nature of the proceedings, and the public interest do not permit; effect compliance with the statutes administered by the Board and the General Counsel, and negotiate and enter into agreements and stipulations relating thereto, with the approval of the Regional Director and of the Board;

(e) Conduct hearings in proceedings under section 9 of the National Labor Relations Act and section 7 (b) of the Fair Labor Standards Act;

(f) Upon assignment, perform all other and necessary acts required of attorneys in connection with the foregoing and the published rules and regulations of the Board.

**§ 201.8 Field Examiners and Officers-in-Charge; their delegations of authority.** The field examiners in each of the Regional Offices and the Officers-in-Charge of sub-regional offices are directly responsible to the Regional Director and work under his direction. Essentially, their duties are to investigate, report to the Regional Director upon, and adjust, subject to the approval of the Regional Director, proceedings instituted in the Regional Offices; and to conduct elections authorized under the act. They may also from time to time perform other necessary functions of the Regional Office, including the following:

(a) Investigate concerning the representation of employees, in accordance with section 9 of the National Labor Relations Act, and conduct secret ballots where such procedure is required under the act;

(b) Prosecute any inquiry necessary to the functions of the General Counsel; have access to and the right to copy evidence, administer oaths and affirmations, examine witnesses and receive evidence;

(c) Conduct hearings in proceedings under section 9 of the National Labor Relations Act and section 7 (b) of the Fair Labor Standards Act;

(d) Perform all other and necessary acts required of them in connection with the foregoing and the published rules and regulations of the Board.

**§ 201.9 Field attorneys; their delegations of authority.** The field attorneys in each of the Regional Offices are charged in general with the duty of performing all necessary legal services for the Regional Director in the region. They are directly responsible to the Chief Law Officer, and through him to the Regional Director, for performance of these services and in that connection work under his direction. They may also from time to time perform other necessary functions of the Regional Office. In connection with performance of their duties, they may, under the direction of the Chief Law Officer, perform the following:

(a) Appear and participate as counsel in Board hearings and, when designated, in other Board litigation and proceedings;

(b) Prosecute any inquiry necessary to the functions of the General Counsel, have access to and the right to copy evidence, administer oaths and affirmations, examine witnesses and receive evidence;

(c) Conduct hearings in proceedings under section 9 of the National Labor

Relations Act and section 7 (b) of the Fair Labor Standards Act;

(d) Investigate concerning the representation of employees (including the taking of secret ballots of employees), in accordance with section 9 (c) of the National Labor Relations Act;

(e) Perform all other and necessary acts required of them in connection with the foregoing and the published rules and regulations of the Board.

**§ 201.10 Persons in "acting" capacity.** Persons who are in an "acting" capacity have all the powers and authority of those in whose positions they are acting.

#### SUBPART C—INFORMATION CONCERNING THE BOARD

**§ 201.11 Places and manner of obtaining information.** The public may obtain information concerning the Board, the General Counsel, their functions, operations, and procedures upon inquiry at any Regional Office or to the Director of Information in Washington, D. C. Information respecting specific cases may be obtained by inquiry at the Regional Office in which the case is pending or, if pending before the Board in Washington, D. C., by inquiry to the Director of Information in Washington.

#### SUBPART D—PLACES WHERE AND METHODS WHEREBY PUBLIC MAY MAKE SUBMITTALS OR REQUESTS

**§ 201.12 Submittals or requests respecting cases in Regional Offices before hearing.** With respect to all proceedings pending in Regional and sub-regional offices and before hearing, the public may file the following submittals or requests with the Regional Offices:

(a) Petitions for certification or decertification under section 9 (c) of the National Labor Relations Act;

(b) Petitions for referenda under section 9 (e) of the National Labor Relations Act, as amended;

(c) Petitions for certification as bona fide representative under section 7 (b) of the Fair Labor Standards Act;

(d) Charges in unfair labor practice and Telegraph Merger Act cases;

(e) Requests to amend or withdraw the aforesaid petitions and charges and for leave to amend pleadings;

(f) Affidavits of labor organizations showing compliance with section 9 (f) (B) (2) of the National Labor Relations Act;

(g) Affidavits of officers of labor organizations pursuant to section 9 (h) of the National Labor Relations Act;

(h) Procedural motions or applications, including applications for subpoenas, petitions to revoke subpoenas, motion to intervene, requests to take depositions and motions to postpone or extend hearing date or time within which to plead. Copies of all such documents, except applications for subpoenas, should be served simultaneously on all other parties and proof of service filed with the Regional Office; and

(i) Compliance or settlement proposals, including submissions of fact, arguments, and offers with respect thereto.

**§ 201.13 Submittals or requests respecting cases in Regional Offices, during hearing.** With respect to all pro-



ceedings pending in the Regional Office and during hearing thereon, the public may make the following submittals or requests:

- (a) To the Regional Office:
  - (1) Motions to amend charges and amended charges;
  - (2) Requests for leave to withdraw charges and petition;
  - (3) Compliance or settlement proposals, including submissions of fact, arguments, and offers with respect thereto;
  - (4) Proposals enter into consent election agreements in representation cases under section 9 of the National Labor Relations Act.

(b) To the Trial Examiner or hearing officer:

- (1) All procedural motions or applications, including applications for subpoenas, petitions to revoke subpoenas, motions to intervene, requests to take depositions, and motions to postpone or extend hearing date or time within which to plead;
- (2) Stipulation of fact;
- (3) Requests with respect to oral arguments or briefs before the Trial Examiner or hearing officer, and oral arguments, briefs and proposed findings and conclusions;
- (4) Proposals to enter into consent election agreements in representation cases under section 9 of the National Labor Relations Act;
- (5) Motions for leave to amend petitions in representation cases under section 9 of the National Labor Relations Act and proceedings under section 7 (b) of Fair Labor Standards Act, and amended petitions.

**§ 201.14 Submittals or requests respecting complaint cases after hearing but before Intermediate Report.** With respect to all unfair practice and Telegraph Merger Act cases in which hearings have been held and before issuance of Intermediate Report, the public may make the following submittals or requests:

- (a) To the Regional Office:
  - (1) Applications for leave to withdraw charges;
  - (2) Compliance or settlement proposals, including submissions of fact, arguments, and offers with respect thereto.
- (b) To the Chief Trial Examiner in Washington, D. C. (copies of all of the following documents should also be served simultaneously on all other parties and a copy, with proof of service, should be filed with the Regional Office):
  - (1) Motions to reopen records;
  - (2) Requests for extensions of time in which to file briefs and proposed findings with the Trial Examiner;
  - (3) All other motions.

**§ 201.15 Submittals or requests respecting complaint cases pending in Washington and before decision by the Board.** With respect to all unfair labor practice and Telegraph Merger Act cases in which hearings have been held and Intermediate Report has been issued, after transfer of the case to the Board but before decision by the Board, the public may make submittals and requests by filing with the Board in Washington,

except that proposals of compliance or settlement, including submissions of fact, arguments, and offers with respect thereto should be made to the Regional Office in which the case originated. Copies of all documents filed with the Board should be served simultaneously upon all other parties and proof of service filed with the Board.

**§ 201.16 Submittals or requests respecting representation and referenda cases pending in Washington and before decision by the Board.** With respect to all cases under section 9 of the act and cases under section 7 (b) of the Fair Labor Standards Act in which hearing has been held and the case transferred to the Board, but before decision by the Board decision, direction of election, or and requests by filing with the Board in Washington. Copies of all motions and briefs should be served simultaneously upon the Regional Director and all other parties and proof of service filed with the Board.

**§ 201.17 Submittals or requests respecting all cases after Board decision.** With respect to all proceedings, after Board decision, direction of election, or order has issued, the public may make the following submittals or requests:

- (a) To the Regional Director:
  - (1) Objections to the conduct of or affecting elections;
  - (2) Compliance or settlement proposals, including submissions of fact, arguments, and offers with respect thereto.
- (b) To the Board in Washington, D. C.:
  - (1) All motions. Copies should be served simultaneously on all other parties and the Regional Office;
  - (2) Exceptions to Regional Director's report on objections or challenges. Copies should be served simultaneously on all other parties and the Regional Director;
  - (3) Requests or applications to modify or set aside Board orders made before filing of record in Circuit Court of Appeals for enforcement or review.

**§ 201.18 Requests for review of Regional Director's dismissal of charge or petition.** Requests for Board review of a Regional Director's refusal to issue a Notice of Hearing in connection with a petition filed under section 9 of the act shall be filed with the Executive Secretary of the Board in Washington, D. C. Requests for review of Regional Director's refusal to issue a complaint in connection with a charge under section 10 of the act, shall be filed with the General Counsel in Washington, D. C. All such requests must be filed within ten days after service of notice of the Director's action, and a copy of the request must be filed with the Regional Director.

**§ 201.19 Other submittals or requests.** Any other submittals or requests with reference to Board proceedings in which hearings have not yet commenced may be made by filing either with the General Counsel in Washington or with the Regional or sub-Regional Office for the area affected by the proceedings, and with reference to Board proceedings where hearings have commenced or have been

completed, with the Board in Washington, D. C., or with the Regional Director for the area affected by the proceeding.

#### APPENDIX—REGIONAL OFFICES

**First Region:** Boston 8, Mass., 24 School Street, Service States of Maine; New Hampshire; Vermont; Massachusetts; Rhode Island; Connecticut, except for Fairfield County.

**Second Region:** New York 15, N. Y., 2 Park Avenue, Services Fairfield County in Connecticut; Clinton, Essex, Warren, Washington, Saratoga, Schenectady, Albany, Rensselaer, Columbia, Greene, Dutchess, Ulster, Sullivan, Orange, Putnam, Rockland, Westchester, Bronx, New York, Richmond, Kings, Queens, Nassau, and Suffolk Counties in New York State; Passaic, Bergen, Essex, Hudson, and Union Counties in New Jersey.

**Third Region:** Buffalo 2, N. Y., 1 W. Genesee Street, Genesee Building. Services New York State, except those counties included in the Second Region.

**Fourth Region:** Philadelphia 7, Pa., 1500 Bankers Securities Building. Services State of New Jersey, except for Passaic, Bergen, Essex, Hudson, and Union Counties; New Castle County in Delaware; all of Pennsylvania lying east of the eastern borders of Potter, Clinton, Centre, Mifflin, Huntingdon, and Franklin Counties.

**Fifth Region:** Baltimore 2, Md., 601 American Building. Services Kent and Sussex Counties in Delaware; Maryland; District of Columbia; Virginia; North Carolina; Jefferson, Berkeley, Morgan, Mineral, Hampshire, Grant, Hardy, and Pendleton Counties in West Virginia.

Sub-Regional Office No. 34—Nissen Building, Winston-Salem, N. C. (for North Carolina).

Sub-Regional Office No. 38—P. O. Box 3656, Santurce, P. R. (for Puerto Rico).

**Sixth Region:** Pittsburgh 22, Pa., 2107 Clark Building. Services all of Pennsylvania lying west of eastern borders of Potter, Clinton, Centre, Mifflin, Huntingdon, and Franklin Counties; Hancock, Brooks, Ohio, Marshall, Wetzel, Nonomgalia, Marion, Harrison, Taylor, Doddridge, Preston, Lewis, Barbour, Tucker, Upshur, Randolph, Webster, and Pocahontas Counties in West Virginia.

**Seventh Region:** Detroit 26, Mich., 1740 National Bank Building. Services State of Michigan, exclusive of Gogebic, Ontonagon, Houghton, Keweenaw, Baraga, Iron, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Chippewa, and Mackinac Counties.

**Eighth Region:** Cleveland 14, Ohio, Ninth-Chester Building. Services State of Ohio, north of the southern borders of Darke, Miami, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, and Belmont Counties.

**Ninth Region:** Cincinnati 2, Ohio, Ingalls Building, Fourth & Vine Streets. Services States of West Virginia, west of the western borders of Wetzel, Doddridge, Lewis, and Webster Counties, and southwest of the southern and western borders of Pocahontas County; Ohio, south of the southern borders of Darke, Miami, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, and Belmont Counties; Kentucky, east of the western borders of Hardin, Hart, Barren, and Monroe Counties; Indiana, south of the southern borders of Fountain, Tippecanoe, Clinton, Tipton, Grant, Wells, and Adams Counties.

Sub-Regional Office No. 35—108 East Washington Building, Indianapolis 4, Ind. (for south of the southern borders of Fountain, Tippecanoe, Clinton, Tipton, Grant, Wells, and Adams Counties in Indiana).

**Tenth Region:** Atlanta 3, Georgia, 50 Whitehall Street. Service States of South Carolina; Georgia; Florida, east of the eastern borders of Franklin, Liberty, and Jackson Counties; Alabama, north of the northern



borders of Choctaw, Marengo, Dallas, Lowndes, Montgomery, Macon, and Russell Counties; Tennessee, east of the eastern borders of Hardin, Decatur, Benton, and Henry Counties.

**Thirteenth Region:** Chicago 3, Illinois, Midland Building, 176 West Adams Street. Services Indiana, north of the southern borders of Fountain, Tippecanoe, Clinton, Tipton, Grant, Wells, and Adams; Illinois, north of the northern borders of Edgar, Coles, Shelby, Christian, Montgomery, Macoupin, Greene, Scott, Brown, and Adams Counties; Wisconsin, east of the western borders of Green, Dane, Dodge, Fond du Lac, Winnebago, Outagamie and Brown Counties.

Sub-Regional Office No. 31—517 East Wisconsin Avenue, Milwaukee, Wis. (for east of the western border of Green, Dane, Dodge, Fond du Lac, Winnebago, Outagamie, and Brown Counties in Wisconsin).

**Fourteenth Region:** St. Louis 1, Mo., International Building, Chestnut and Eighth Streets. Services States of Illinois, south of northern borders of Edgar, Coles, Shelby, Christian, Montgomery, Macoupin, Greene, Scott, Brown, and Adams Counties; Missouri, east of the western borders of Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Maries, Phelps, Dent, Shannon, and Oregon Counties.

**Fifteenth Region:** New Orleans 12, La., 631 Federal Office Building. Services States of Louisiana; Arkansas; Mississippi; Tennessee, west of the eastern borders of Hardin, Decatur, Benton, and Henry Counties; Alabama, south of the northern borders of Choctaw, Marengo, Dallas, Lowndes, Montgomery, Macon, and Russell Counties; Florida, west of the eastern borders of Franklin, Liberty, and Jackson Counties.

Sub-Regional Office No. 32—Federal Building, Memphis 3, Tenn. (for west of the eastern borders of Hardin, Decatur, Benton, and Henry Counties in Tennessee; north of the southern border of Polk, Montgomery, Hot Spring, Grant, Jefferson, and Arkansas Counties in Arkansas; and north of the southern border of Coahoma, Quitman, Panola, Lafayette, Pontotoc, Lee, and Itawamba Counties in Mississippi).

**Sixteenth Region:** Fort Worth 2, Texas, 1101 Tex. & Pac. Bldg. Services States of Texas, Oklahoma, and New Mexico.

Sub-Regional Office No. 33—504 North Kansas, El Paso, Texas (for all of New Mexico; and El Paso, Hudspeth, Culbertson, Reeves, Loving, Winkler, Ward, Crane, Upton, Ector, Midland, Pecos, Jeff Davis, Andrews, Martin, Gaines, Dawson, Yoakum, Terry, Lynn, and Borden Counties in Texas).

**Seventeenth Region:** Kansas City 6, Mo., 903 Grand Avenue, Temple Building. Services States of Missouri, west of the western borders of Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Maries, Phelps, Dent, Shannon, and Oregon Counties; Kansas, Nebraska; Colorado, Wyoming.

Sub-Regional Office No. 30—434 Commonwealth Building, 15th and Stout Streets, Denver 2, Colorado (for Colorado and Wyoming).

**Eighteenth Region:** Minneapolis 4, Minn., Wesley Temple Building. Services States of Minnesota; North Dakota; South Dakota; Iowa; Wisconsin, west of the western borders of Greene, Dane, Dodge, Fond du Lac, Winnebago, Outagamie, and Brown Counties; Michigan, north of the southern borders of Menominee, Delta, Schoolcraft and Mackinac.

**Nineteenth Region:** Seattle 1, Washington, 806 Vance Building. Services States of Washington; Oregon; Montana; Idaho; Territory of Alaska.

Sub-Regional Office No. 36—715 Mead Building, Portland 4, Oregon (for Clark County in Washington, and all of the State of Oregon).

**Twentieth Region:** San Francisco 2, California, 407 Federal Office Building. Services States of Nevada; Utah; California, north of

the southern borders of Monterey, Kings, Tulare, and Inyo Counties.

**Twenty-first Region:** Los Angeles 14, California, 111 West 7th Street. Services States of Arizona; California, south of the southern borders of Monterey, Kings, Tulare, and Inyo Counties; Territory of Hawaii.

[F. R. Doc. 48-5025; Filed, June 8, 1948; 8:48 a. m.]

## Chapter V—Wage and Hour Division, Department of Labor

### PART 688—MINIMUM WAGE RATE IN THE ARTIFICIAL FLOWER INDUSTRY IN PUERTO RICO

#### RECOMMENDATION OF SPECIAL INDUSTRY COMMITTEE NO. 5 FOR PUERTO RICO

Pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C., Supp., 1001), notice was published in the FEDERAL REGISTER on May 12, 1943 (13 F. R. 2571) of the Administrator's decision to approve the minimum wage recommendation of Special Industry Committee No. 5 for Puerto Rico for the Artificial Flower Industry in Puerto Rico, and the proposed wage order to carry such recommendation into effect was published therewith. Interested parties were given an opportunity to submit exceptions within 15 days of the date of publication of the notice. No exceptions have been filed, and the time for such filing has expired.

Accordingly, pursuant to authority vested in me by the Fair Labor Standards Act of 1938 (52 Stat. 1064; 29 U. S. C. 201), the said decision is hereby affirmed and made final, and the said wage order is hereby issued, to become effective July 12, 1948 as provided therein.

Sec.

688.1 Approval of recommendation of Industry Committee.

688.2 Wage rate.

688.3 Notices of order.

688.4 Definition of the Artificial Flower Industry in Puerto Rico.

**AUTHORITY:** §§ 688.1 to 688.4, inclusive, issued under secs. 5 (e) and 8 of the Fair Labor Standards Act of 1938 (sec. 3 (c), 54 Stat. 615; Sec. 8, 52 Stat. 1064; 29 U. S. C. 205 (e), 208).

**§ 688.1 Approval of recommendation of Industry Committee.** The Committee's recommendation is hereby approved.

**§ 688.2 Wage rate.** Wages at the rate of not less than 33 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the Artificial Flower Industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

**§ 688.3 Notices of order.** Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the Artificial Flower Industry in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department

of Labor and shall give such other notice as the Division may prescribe.

**§ 688.4 Definition of the Artificial Flower Industry in Puerto Rico.** The Artificial Flower Industry in Puerto Rico, to which this order shall apply, is hereby defined as follows: The manufacture and assembling of artificial flowers, buds, berries, foliage, leaves, fruits, plants, stems and branches.

This definition does not include such products as are not commonly or commercially known as "artificial" such as flowers made by blowing glass, molding plastic, or carving wood. This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

Signed at Washington, D. C., this 28th day of May 1948.

F. GRANVILLE GRIMES, Jr.,  
Acting Administrator,  
Wage and Hour Division.

[F. R. Doc. 48-5022; Filed, June 7, 1948; 8:48 a. m.]

## TITLE 32—NATIONAL DEFENSE

### Chapter I—Secretary of Defense

[Transfer Order 14]

ORDER TRANSFERRING CERTAIN REAL PROPERTY AND FUNCTIONS PERTAINING TO REAL PROPERTY FROM DEPARTMENT OF THE ARMY TO DEPARTMENT OF THE AIR FORCE

Pursuant to the authority vested in me by the National Security Act of 1947 (act of July 26, 1947; Public Law 253, 80th Congress) and in order to effect certain transfers authorized or directed therein, it is hereby ordered as follows:

1. (a) All real property (as defined in paragraph 5 of this order) under the command, authority or control of the Chief of Staff, United States Air Force, or of the Department of the Air Force, wherever located, other than that industrial real property already transferred by Transfer Order No. 6. National Military Establishment, dated January 9, 1948, is hereby transferred, subject to outstanding incumbrances, from the jurisdiction of the Secretary of the Army and the Department of the Army to the jurisdiction of the Secretary of the Air Force and the Department of the Air Force.

(b) Further transfers between the Department of the Army and the Department of the Air Force of such real property as the Secretaries of the Army and the Air Force may jointly determine to be necessary or desirable are hereby directed. Each transfer under this subparagraph shall be effective at such time or times as such Secretaries shall jointly determine.

2. There are hereby transferred to and vested in the Secretary of the Air Force and the Department of the Air Force, insofar as they pertain to real property which comes under the jurisdiction of the Department of the Air Force, the functions, powers and duties which are



vested in the Secretary of the Army or the Department of the Army or any officer of that Department by the following laws, parts of laws and Executive Orders, as limited by other laws, parts of laws and Executive Orders not specifically set forth herein:

(1) Act of December 1, 1941, c. 552, sec. 1 (55 Stat. 787; 10 U. S. C. 181b).

(2) Act of June 5, 1942, c. 340, sec. 7 (56 Stat. 316; 50 App. U. S. C. Supp. II, 767).

(3) Act of August 12, 1935, c. 511, secs. 1, 2, and 3 (49 Stat. 610, 611; 10 U. S. C. 1343a, 1343b, 1343c).

(4) Act of June 11, 1926, c. 555, sec. 4 (44 Stat. 727; 16 U. S. C. 455c).

(5) Act of July 9, 1918, c. 143 (40 Stat. 861; 40 U. S. C. 37).

(6) Act of July 8, 1918, c. 139, sec. 1 (40 Stat. 826; 40 U. S. C. 41).

(7) Act of July 2, 1917, c. 35 (40 Stat. 241), as amended by the act of April 11, 1918, c. 51 (40 Stat. 518; 50 U. S. C. 171).

(8) Act of September 11, 1841 (R. S. 355), as amended by the act of June 28, 1930, c. 710 (46 Stat. 828), and the act of February 1, 1940, c. 18 (54 Stat. 19), and the act of October 9, 1940, c. 793 (54 Stat. 1083; 40 U. S. C. 255).

(9) Act of August 29, 1916, c. 418, sec. 1 (39 Stat. 622, 623; 10 U. S. C. 1342, 1344).

(10) Act of June 30, 1932, c. 314, sec. 322 (47 Stat. 412), as amended by the act of March 3, 1933, c. 212, Title II, sec. 15 (47 Stat. 1517; 40 U. S. C. 278a), as modified by the act of April 28, 1942, c. 249 (56 Stat. 247; 40 U. S. C. 278b).

(11) Act of July 11, 1919, c. 9 (41 Stat. 132), as amended by the act of August 7, 1946, c. 782 (60 Stat. 889; 10 U. S. C. 1274).

(12) Act of June 28, 1944, c. 303, sec. 1 (58 Stat. 585; 10 U. S. C. 1594b).

(13) Act of July 2, 1940, c. 508, sec. 1 (54 Stat. 712; 50 App. U. S. C., Supp. II, 1171).

(14) Act of March 12, 1926, c. 54, sec. 11 (44 Stat. 207; 10 U. S. C. 1604).

(15) Act of August 5, 1947, c. 493, sec. 1, Public Law 364, 80th Congress (61 Stat. 774).

(16) Act of May 24, 1928, c. 728, sec. 1 (45 Stat. 728), as amended by the act of August 16, 1941, c. 354 (55 Stat. 621; 49 U. S. C. 211).

(17) Act of May 24, 1928, c. 728, sec. 2 (45 Stat. 728), as amended by the act of June 23, 1938, c. 601, sec. 1107 (b) (52 Stat. 1027), and Reorganization Plan No. IV of June 30, 1940, sec. 7 (54 Stat. 1235; 49 U. S. C. 212).

(18) Act of May 20, 1926, c. 344, sec. 5 (44 Stat. 570), as amended by the act of June 19, 1934, c. 654, sec. 9 (48 Stat. 1115), and the act of June 23, 1938, c. 601, sec. 1107 (i) (1, 2), 1107 (k) (52 Stat. 1028, 1029), and Reorganization Plan No. IV of June 30, 1940, sec. 7 (54 Stat. 1235; 49 U. S. C. 175).

(19) Act of May 17, 1926, c. 313, sec. 1 (44 Stat. 562; 10 U. S. C. 1351).

(20) Act of June 3, 1916, c. 134 (39 Stat. 166), as amended by the act of June 4, 1920, c. 227, subch. I, sec. 34 (41 Stat. 779; 10 U. S. C. 442).

(21) Act of June 3, 1916, c. 134 (39 Stat. 166), as amended by the act of June

4, 1920, c. 227, subch. I, sec. 51, (41 Stat. 785; 10 U. S. C. 1347).

(22) Act of June 3, 1916, c. 134, sec. 113, (39 Stat. 211; 32 U. S. C. 186).

(23) Act of March 4, 1915, c. 143, sec. 2, (38 Stat. 1086; 10 U. S. C. 1458).

(24) Act of August 1, 1914, c. 223, sec. 1, (38 Stat. 629; 10 U. S. C. 1345).

(25) Act of June 8, 1906, c. 3060, sec. 3 and 4, (34 Stat. 225; 16 U. S. C. 432).

(26) Act of May 31, 1902, c. 943, (32 Stat. 282; 10 U. S. C. 1346).

(27) Act of February 27, 1893, c. 168, (27 Stat. 484; 19 U. S. C. 1340).

(28) Act of July 5, 1884, c. 214, sec. 6, (23 Stat. 104; 10 U. S. C. 1348).

(29) Act of July 31, 1882, c. 363, (22 Stat. 181; 25 U. S. C. 276).

(30) Act of June 23, 1879, c. 35, sec. 8, (21 Stat. 35; 10 U. S. C. 1332).

(31) Act of May 15, 1896, c. 182, sec. 1, (29 Stat. 120; 16 U. S. C. 411).

(32) Act of July 24, 1946, c. 596, sec. 7, (60 Stat. 643; 43 U. S. C. 931b).

(33) Act of June 22, 1944, c. 268, Title I, sec. 102, (58 Stat. 284; 38 U. S. C. 693b).

(34) All other laws, parts of laws, including applicable provisions of appropriations acts, and Executive orders which vest in the Secretary of the Army or the Department of the Army or any officer of that Department, functions, powers and duties relating to real property, insofar as they pertain to real property which comes under the jurisdiction of the Department of the Air Force.

3. The Department of the Air Force will utilize the services of the Department of the Army for the acquisition and disposition of real property, subject to such adjustments as from time to time are jointly determined to be necessary by the secretaries of the two departments.

4. The Secretary of the Army, the Secretary of the Air Force or their representatives are hereby authorized to issue such orders as may be necessary to effectuate the purposes of this order. In this respect, the transfer of such related personnel, property, records, installations, agencies, activities, and projects as the Secretaries of the Army and the Air Force shall from time to time jointly determine to be necessary, is authorized.

5. As used in this order, the term "real property" means lands, and improvements and facilities located thereon, whether temporary or permanent, including installations, and their auxiliary or subordinate installations and facilities, or portions thereof, rights-of-way or easements, and any other interests in land which may be acquired or held for the use or benefit of the Government.

6. It is expressly determined that the transfers herein specified are necessary and desirable for the operations of the Department of the Air Force and the United States Air Force.

7. Nothing contained in this order shall operate as a transfer of funds.

8. This order shall be effective as of 12:00 noon, July 1, 1948.

JAMES FORRESTAL,  
Secretary of Defense.

MAY 27, 1948.

[F. R. Doc. 48-5087; Filed, June 8, 1948; 8:46 a. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### Chapter I—Interstate Commerce Commission

[S. O. 129, Amdt. 6]

#### PART 95—CAR SERVICE

##### BODY ICE IN REFRIGERATOR CARS; REMOVAL BY CONSIGNEE

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 1st day of June A. D. 1948.

Upon further consideration of the provisions of Service Order No. 129 (8 F. R. 7778), as amended (11 F. R. 14328; 12 F. R. 1420, 4001) and good cause appearing therefor: It is ordered, that:

Section 95.310 *Body ice in refrigerator cars; removal by consignee*, of Service Order No. 129, as amended, be, and it is hereby, further amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Expiration date.* This section, as amended, shall expire at 11:59 p. m., December 12, 1948, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, that this amendment shall become effective at 11:59 p. m., June 15, 1948; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 48-5091; Filed, June 8, 1948; 8:47 a. m.]

[S. O. 646, Amdt. 4]

#### PART 95—CAR SERVICE

##### ICING AT ROSEVILLE, SAN JOSE OR STOCKTON, CALIF.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 1st day of June A. D. 1948.

Upon further consideration of Service Order No. 646 (11 F. R. 14109), as amended (12 F. R. 2479, 4143), and good cause appearing therefor: It is ordered, that:

Section 95.646 *Icing at Roseville, San Jose or Stockton*, of Service Order No. 646, be, and it is hereby, further amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This section shall expire at 11:59 p. m., December 5, 1948, unless otherwise modified, changed, suspended or annulled by order of this Commission.



## RULES AND REGULATIONS

[Rev. S. O. 813A]

## PART 95—CAR SERVICE

## EMBARGO AGAINST GOLDBERG BUILDING MATERIAL CO.

It is further ordered, that this amendment shall become effective 11:59 p. m., June 30, 1948; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 48-5089; Filed, June 8, 1948;  
8:47 a. m.]

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 3d day of June A. D. 1948.

Upon further consideration of Revised Service Order No. 813 (13 F. R. 2495), and good cause appearing therefor: It is ordered, that:

Revised Service Order No. 813 (codified as 49 CFR, 95.813) *Goldberg Building Material Co. embargoed*, be, and it is hereby, suspended until 11:59 p. m., September 9, 1948, unless otherwise modified or changed.

It is further ordered, that this amendment shall become effective 12:01 a. m., June 4, 1948, and copies of this order

shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, secs. 402, 418, 41 Stat. 475, 485, secs. 4, 10, 54 Stat. 901, 912; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 48-5090; Filed, June 8, 1948;  
8:47 a. m.]

## PROPOSED RULE MAKING

## DEPARTMENT OF THE TREASURY

## Bureau of Internal Revenue

## [26 CFR, Part 29]

## FARMERS' RETURNS

CONSENT OF COMMISSIONER TO BE OBTAINED  
WHEN BASIS IS CHANGED FROM CASH RECEIPTS  
AND DISBURSEMENTS TO INVENTORY

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code (53 Stat. 32, 469; 26 U. S. C. 62, 3791).

[SEAL]

GEO. J. SCHOENEMAN,  
Commissioner of Internal Revenue.

Section 29.22 (c)-6 of Regulations 111 (26 CFR, Part 29), as amended by Treasury Decision 5423, approved December 15, 1944, is further amended by adding before the period at the end of the first sentence thereof the following: "And provided further, That, with respect to taxable years beginning after \_\_\_\_\_, 1948, the date of approval of Treasury Decision \_\_\_\_\_, permission for such change shall first have been secured from

the Commissioner, as provided in § 29.41-2".

[F. R. Doc. 48-5088; Filed, June 8, 1948;  
8:47 a. m.]

## DEPARTMENT OF AGRICULTURE

## Production and Marketing Administration

## [7 CFR, Part 927]

[Docket No. AO 71-A-15]

## HANDLING OF MILK IN NEW YORK METROPOLITAN MARKETING AREA

NOTICE OF HEARING CONCERNING PROPOSED  
AMENDMENTS TO TENTATIVE MARKETING  
AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Supps., 900.1 et seq.; 12 F. R. 1159, 4904), notice is hereby given of a hearing to be held at the Commodore Hotel, New York, New York, beginning at 10:00 a. m., e. d. s. t., June 14, 1948, for the purpose of receiving evidence with respect to proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture (13 F. R. 1525) and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area (7 CFR Supps., 927.0 et seq., 12 F. R. 5249, 8882, 13 F. R. 1396, 1641). These proposed amendments have not received the approval of the Secretary of Agriculture.

This public hearing is for the purpose of receiving evidence with respect to the economic or marketing conditions which relate to the establishment of Class I-A minimum floor prices for a limited period of time beginning July 1, 1948. Evi-

dence will be received on the following proposals:

(1) Proposed by: Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., Dairymen's League Cooperative Association, Inc., Mutual Cooperative of Independent Producers, Inc., District No. 50, United Mine Workers of America, Eastern Milk Producers Cooperative Association, Inc.:

Amend § 927.5 (a) (1) (ii) to provide a Class I-A price higher than \$5.46 per hundredweight for the month of July 1948.

(2) (Proponents same as for No. 1 above):

Amend § 927.5 (a) (1) (ii) to read as follows:

(ii) The Class I-A price shall not be less than \$5.90 per hundredweight for the month of August 1948, and \$6.34 per hundredweight for each of the months of September through December 1948, or the price for such month under Order No. 4 of the United States Department of Agriculture plus 3 cents, whichever is higher.

(3) Proposed by Poland Milk Producers Cooperative Association, Inc.:

Amend § 927.5 (a) (1) (ii) to provide for the following Class I-A minimum floor prices per hundredweight:

July and August 1948..... \$5.90  
September through December 1948..... 6.34

Copies hereof may be secured from the office of the Market Administrator, 205 East 42d Street, New York 17, New York, or from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., or may be there inspected.

Dated: June 4, 1948, at Washington, D. C.

[SEAL]

JOHN I. THOMPSON,  
Assistant Administrator.

[F. R. Doc. 48-5123; Filed, June 8, 1948;  
8:52 a. m.]



# DEPARTMENT OF LABOR

## Wage and Hour Division

### [29 CFR, Ch. VI]

[Administrative Order 385]

#### MINIMUM WAGE RATE IN THE VEGETABLE, FRUIT AND FRUIT JUICE CANNING INDUSTRY IN PUERTO RICO

#### RECOMMENDATION OF SPECIAL INDUSTRY COMMITTEE NO. 5 FOR PUERTO RICO

Whereas, on June 16, 1947, pursuant to section 5 (e) of the Fair Labor Standards Act of 1938, hereinafter referred to as the act, the Administrator of the Wage and Hour Division of the United States Department of Labor, by Administrative Order No. 367, appointed Special Industry Committee No. 5 for Puerto Rico, hereinafter referred to as the Committee, and directed the Committee to proceed to investigate conditions and to recommend to the Administrator minimum wage rates for employees in various industries in Puerto Rico, including the vegetable, fruit and fruit juice canning industry, in accordance with the provisions of the act and rules and regulations promulgated thereunder; and

Whereas, the Committee included three disinterested persons representing the public, a like number representing employers in the vegetable, fruit and fruit juice canning industry in Puerto Rico, and a like number representing employees in the industry, and was composed of residents of Puerto Rico and of the United States outside of Puerto Rico; and

Whereas, the Committee, after investigating economic and competitive conditions in the vegetable, fruit and fruit juice canning industry, filed with the Administrator a report containing its recommendation for a 16-cent minimum hourly wage rate in the vegetable, fruit and fruit juice canning industry; and

Whereas, pursuant to notice published in the FEDERAL REGISTER on January 8, 1948, a public hearing on the Committee's recommendation was held in Washington, D. C., on February 9, 1948 before E. West Parkinson, as presiding officer designated by the Administrator, at which time all interested persons were given an opportunity to be heard; and

Whereas, the Acting Administrator, upon reviewing all the evidence adduced in this proceeding and after giving consideration to the provisions of the Act with special reference to sections 5 and 8, has concluded that the recommendation of the Committee for a minimum wage rate in the vegetable, fruit and fruit juice canning industry, as defined, is not supported by the evidence adduced at the hearing and, taking into consideration the same factors as are required to be considered by the Committee, would not, if approved, carry out the purposes of sections 5 and 8 of the act; and

Whereas, the Acting Administrator has set forth his decision in an opinion entitled "Findings and Opinion in the Matter of the Recommendation of Special Industry Committee No. 5 for Puerto Rico for a Minimum Wage Rate in the Vegetable, Fruit and Fruit Juice Canning Industry in Puerto Rico," a copy of which may be had upon request addressed to

No. 112—5

the Wage and Hour Division, United States Department of Labor, Washington 25, D. C.,

Now, therefore, it is ordered, That the recommendation of Special Industry Committee No. 5 for Puerto Rico for the Vegetable, Fruit and Fruit Juice Canning Industry in Puerto Rico is hereby disapproved.

Signed at Washington, D. C., this 1st day of June 1948.

F. GRANVILLE GRIMES, Jr.,  
Acting Administrator,  
Wage and Hour Division.

[F. R. Doc. 48-5106; Filed, June 8, 1948; 8:51 a. m.]

## CIVIL AERONAUTICS BOARD

### [14 CFR, Parts 41, 61]

#### ADDITIONAL FLIGHT CREW COMPLEMENT

##### NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration amendments designed to clarify the additional flight crew requirements of Parts 41 and 61 as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Safety Bureau, Washington 25, D. C. All communications received within 30 days after the date of this publication will be considered by the Board before taking action on the proposed rules.

The Board on April 14, 1948, adopted an amendment of Part 41 requiring, under certain specified conditions, the utilization of flight engineers, flight radio operators, and flight navigators, and a similar amendment of Part 61 with respect to flight engineers. Certain comments have been received from the air carriers which indicate that these rules do not clearly express the intention of the Board in adopting them. The Board, therefore, has redrafted these provisions to express more adequately the additional crew complement requirements.

After due consideration of other comments made by the air carriers, the Board does not find that further hearing or consideration of changes other than contained herein is necessary or desirable.

It is proposed to amend Parts 41 and 61 as follows:

1. By adding a new paragraph (q) to § 41.99 to read as follows:

(q) Route segment means any part of a route the limits of which are determined by their relation to, but do not necessarily coincide with, definite navigational fixes.

2. By amending § 41.309 to read as follows:

§ 41.309 *Composition of flight crew.*  
(a) No air carrier shall operate an aircraft with less than the minimum flight crew required for the type of operation and the make and model aircraft as determined by the Administrator in accordance with the standards hereinafter prescribed and specified in the air carrier operating certificate for each route or route segment.

(b) Where the provisions of this part require for a particular route or route segment the performance of two or more functions for which an airman certificate is necessary, such requirement shall not be satisfied by the performance of multiple functions by any airmen over such route or route segment.

3. By amending § 41.310 to read as follows:

§ 41.310 *Flight radio operator; when required.* An airman holding a flight radio operator certificate shall be required for flight over any area, route, or segment thereof over which the Administrator has determined that radiotelegraphy is necessary for communication with ground stations during flight.

4. By amending §§ 41.320 and 61.56 to read as follows:

§ 41.320 and § 61.56 *Flight engineer; when required.* After December 1, 1948, an airman holding a flight engineer certificate shall be required on all four-engine aircraft certificated for more than 80,000 lbs. maximum take-off weight, and on all other four-engine aircraft certificated for more than 30,000 lbs. maximum take-off weight where the Administrator finds that the design of the aircraft used or the type of operation are such as to require a flight engineer for the safe operation of the aircraft.

5. By amending § 41.330 to read as follows:

§ 41.330 *Flight navigator; when required.* An airman holding a flight navigator certificate shall be required for flight over any area, route, or segment thereof when the Administrator has determined either that celestial navigation is necessary or that other specialized means of navigation necessary for the safe conduct of flight cannot be adequately utilized from the pilot station.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Secs. 205 (a), 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a), 551-560)

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 48-5194; Filed, June 8, 1948; 9:29 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

### [47 CFR, Part 31]

[Docket No. 8872]

#### REVISIONS OF CERTAIN SCHEDULES IN ANNUAL REPORT FORM M APPLICABLE TO CLASS A AND CLASS B TELEPHONE COMPANIES

##### NOTICE OF PROPOSED RULE MAKING

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The proposed revisions of Schedules 200A, 201A, 201L, 200L, 211, 400, 402, 460A, 460D, 461, and 462, and the schedules proposed to replace existing Schedules 323 and 403 of Annual Report Form M (applicable to Class A and Class B



## PROPOSED RULE MAKING

Telephone Companies) are set forth below. There is also set forth below a proposed additional instruction, providing that the word "surplus" shall be construed to mean "earned surplus" where it appears in the specified schedules, in accordance with the Uniform System of Accounts.

3. Many of the revisions set forth below are intended to bring the reporting schedules into conformity with the changes in the Uniform System of Accounts for Class A and B Telephone Companies effective under Amendment 31-1 January 1, 1948. The changes proposed in Schedule 400, and the new schedule proposed to replace present Schedule 403 are designed to reflect changes in operations which have resulted from new technological developments. Other revisions, including the substitution of the contents of Schedule 339 of Forms O and R for present Schedule 323 of Form M, are primarily designed to simplify, or clarify, present reporting requirements.

4. Annual Report Form M is required to be filed under § 43.21 of the Commission's rules and regulations, issued under section 219 of the Communications Act of 1934, as amended. Authority for the issuance of the proposed amendments and revisions is contained in section 219 of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the proposed revisions should not be adopted, or should not be adopted in the manner set forth below, may file with the Commission on or before June 14, 1948 a written statement or brief setting forth his comments. At the same time interested parties may file written statements or briefs in support of the Commission's proposals. The Commission will consider all such comments that are presented before taking action in the matter, and if any comments are submitted which appear to warrant the holding of oral argument, notice of time and place of oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: May 27, 1948.

Released: May 28, 1948.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] T. J. SLOWIE,  
Secretary.

Revisions of schedules in Annual Report Form M as follows:

1. At page 200, Schedule 200A, "Comparative Balance Sheet—Asset Side," after line 5 insert the following:

(100.7) Telephone plant adjustment

2. At page 201, Schedule 200L, "Comparative Balance Sheet—Liability Side,"

42	x x x x x	CAPITAL SURPLUS	x x x x x x x
43	x x x x x	(Other than premium on capital stock—See line 5).....	x x x x x x x
44	x x x x x	(179) Other capital surplus.....	x x x x x x x
45	x x x x x	EARNED SURPLUS	x x x x x x x
46	x x x x x	(180) Earned surplus reserved (p. 241).....	291
47	x x x x x	(181) Unappropriated earned surplus † (p. 300).....	300
48	x x x x x	Total earned surplus †.....	
49	x x x x x	Grand total.....	

4. At pages 201A and 201B, delete the schedules leaving only the captions and the instructions at the head of the pages.

5. At page 202, Schedule 211, "Investment in Telephone Plant," after line 27 insert the following:

(100.7) Telephone plant adjustment

6. At page 400, add the following instructions under the subheading, "I. Plant Mileage":

Coaxial tube, to be reported in column (u) is the assembly of one inner and one outer conductor in a coaxial cable. Usually two or more such assemblies are included in one cable.

Column (v) shall include the total number of miles between the individual stations of radio-relay systems.

7. Revise Schedule 400, "Plant and Operating Statistics," as follows:

(a) At page 401, delete asterisk following heading "Miles of Wire in Cable" and delete the footnote.

(b) At page 401, delete column (u), "Remarks," and substitute two columns, as follows:

Total owned tube miles of coaxial in cable	Total owned miles of radio-relay system
(u)	(v)

(c) At page 401, add two lines at the bottom of the schedule as follows:

Line No.	
31	Number of fixed short-haul radio-telephone links.....
32	Number of portable emergency radiotelephone sets respondent is licensed to operate.....

on line 1 change the item to read "Stock and Premium." Change the item on line 9 to read "Total stock and premium."

3. At page 201, Schedule 200L, beginning with line 42, delete the items and captions on lines 42 to 46, inclusive, and substitute the following material in the respective columns to which pertinent:

8. At page 401D, Schedule 402, "Teletypewriters on Customers' Premises Used in Teletypewriter Exchange Service," in the last paragraph of instructions change the schedule reference from "403" to "404".

9. At page 404, Schedule 460A, "Pension and Benefit Funds," line 31, and in footnote "" of that page, delete the word "current."

10. At page 405, Schedule 460D, "Benefits," change the caption of column(s) to read "By respondent's insurers or trustees."

11. At page 406, Schedule 461, "Employees and Their Salaries," over columns (b), (c), and (d) change "June" to read "April".

12. At page 408, Schedule 462, "Compensation and Expenses of Officers, Directors, Etc.," in the third line of the instruction change the amount "\$10,000" to read "\$15,000."

13. At page 304, replace present Schedule 323, "Regulatory Commission Expenses," with revised Schedule 323.

14. At pages 401E and 401F, replace present Schedule 403, "Radiotelephone Service," Sections I, II, and III, with revised Schedule 403, Sections I and II.

15. At page entitled "Special Notice," insert new paragraph as follows:

The term "Earned Surplus" should be assumed to apply where the word "Surplus" is used in Schedules 211C, 285, 285A, 286, 291, 300, 304, 350, 351, and 360.

[F. R. Doc. 48-5103; Filed, June 8, 1948; 8:49 a. m.]

## NOTICES

## DEPARTMENT OF THE TREASURY

## United States Coast Guard

[CGFR 48-31]

## APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, U. S. Coast Guard, by

<sup>1</sup> Proposed new schedules 323 and 403 filed as part of the original document.

R. S. 4405 and 4491, as amended (46 U. S. C. 375, 489), and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875), as well as the additional authority cited with the specific items below, the following approvals of equipment are prescribed and shall be effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority:

## BUOYANT CUSHIONS, NON-STANDARD

NOTE: Cushions are for use on motorboats of classes A, 1, and 2 not carrying passengers for hire.

Approval No. 160.008/386/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, unsupported plastic film cover and straps, Dwg. No. B-46, Rev. March 6, 1946, and Dwg. No. A-203 dated 2 February 1948, manufactured by The American Pad and Textile Co., Greenfield, Ohio.



Approval No. 160.008/393/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, unsupported plastic film cover and straps, Dwg. No. 107 dated April 27, 1948, manufactured by Merit Manufacturing Corp., 225-27 Powell Street, Brooklyn 12, N. Y.

(54 Stat. 164, 166; 46 U. S. C. 526e, 526p; 46 CFR 25.4-1, 28.4-8)

## DAVITS, LIFEBOAT

Approval No. 160.032/101/0, Mechanical davit, boom sheath screw Type B-25, approved for maximum working load of 5,000 pounds per set (2,500 pounds per arm) using 5 part falls, identified by Arrangement Dwg. No. 3211 dated March 13, 1948, submitted by the Welin Davit and Boat Division of the American Steel & Copper Industries, Inc., Perth Amboy, N. J.

Approval No. 160.032/102/0, Mechanical davit, crescent sheath screw Type C-65, approved for maximum working load of 13,000 pounds per set (6,500 pounds per arm) using 2 part falls, identified by General Arrangement Dwg. No. 2082-10 dated September 22, 1947, manufactured by Welin Davit and Boat Division of the American Steel & Copper Industries, Inc., Perth Amboy, N. J.

(R. S. 4417a, 4426, 4481, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 474, 481, 1333, 50 U. S. C. 1275; 46 CFR 37.1-4, 59.3, 60.21, 76.15, 94.14, 113.23)

## LIFEBOATS

Approval No. 160.035/159/0, 12' x 4.4' x 1.9' steel, oar-propelled lifeboat, 6-person capacity, identified by General Arrangement and Construction Dwg. No. 1215 dated May 3, 1946 and revised April 27, 1947, manufactured by Lane Lifeboat & Davit Corp., Foot of 40th Road and Flushing River, Flushing, N. Y.

Approval No. 160.035/160/1, 16.0 x 5.0' x 2.1' steel, oar-propelled lifeboat, 10-person capacity, identified by construction and arrangement Dwg. No. 1613 dated November 27, 1946, manufactured by Lane Lifeboat & Davit Corp., Foot of 40th Road and Flushing River, Flushing, N. Y. (This approval supersedes previous approval No. 160.035/160/0 published in the FEDERAL REGISTER of July 31, 1947.)

Approval No. 160.035/195/0, 35.0' x 12.33' x 5.25', steel, motor-propelled lifeboat with radio cabin, 130-person capacity, identified by Construction and Arrangement Dwg. No. 3195 dated November 18, 1947, submitted by the Welin Davit and Boat Division of the American Steel & Copper Industries, Inc., Perth Amboy, N. J.

(R. S. 4417a, 4426, 4481, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 474, 481, 490, 1333, 50 U. S. C. 1275; 46 CFR 37.1-1, 59.13, 76.16, 94.15, 113.10)

Dated: June 2, 1948.

[SEAL] MERLIN O'NEILL,  
Rear Admiral, U. S. Coast Guard,  
Acting Commandant.

[F. R. Doc. 48-5132; Filed, June 8, 1948; 8:54 a. m.]

[CGFR 48-32]

## TERMINATION OF APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by U. S. 4405 and 4491, as amended (46 U. S. C. 375, 489), and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875), as well as the additional authorities cited with the specific items below, I find that the oxygen breathing apparatus described below is less suitable, as compared with other apparatus now available, for emergency work aboard ship because of its additional weight and size occasioned by its increased capacity which is in excess of that required by the regulations for merchant vessels, and the approval is terminated with the consent of the manufacturer and the other approvals are terminated because the items of equipment are no longer being manufactured, as follows:

## GAS MASKS AND OTHER BREATHING APPARATUS

Termination of Approval No. 160.011/17/0, McCaa two-hour oxygen breathing apparatus, Bureau of Mines Approval No. BM-1303, MSA General Assembly Dwg. No. A990-1, Revision 3 dated 11 August 1939, Dwg. No. A990-2 dated 15 September 1931, Mine Safety Appliances Co., Braddock, Thomas, and Meade Streets, Pittsburgh 1, Pa. Approval No. 160.011/17/0 was published in the FEDERAL REGISTER July 31, 1947.

(R. S. 4417a, 4426, 49 Stat. 1544, 54 Stat. 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 50 U. S. C. 1275; 46 CFR 35.4-5, 61.18, 77.18, 95.17, 114.18)

## LIQUEFIED PETROLEUM GAS VALVES, FITTINGS, AND GAUGES

Termination of Approval No. 162.018/6/0, Rego pop type safety relief valve, liquefied petroleum gas service, marked "Rego No. 2417", bronze body, resilient composition seat disc, threaded connection, Dwg. No. 2417 and Catalog No. L-500, approved for 2" pipe size, maximum allowable working pressure 100 p. s. i., manufactured by The Bastian-Blessing Co., 4201 West Petersen Avenue, Chicago, Ill. Approval No. 162.018/6/0 was published in the FEDERAL REGISTER of July 31, 1947.

Termination of Approval No. 162.018/10/0, Roney rotary liquid level gauge, liquefied petroleum gas service, marked "Rego No. 2472", bronze body, Dwg. No. 2472 dated April 8, 1939, manufactured by The Bastian-Blessing Co., 4201 West Petersen Avenue, Chicago, Ill. Approval No. 162.018/10/0 was published in the FEDERAL REGISTER of July 31, 1947.

Termination of Approval No. 162.018/11/0, Roney rotary liquid level gauge, liquefied petroleum gas service, marked "Rego No. 2472A", bronze body, Dwg. No. 2472A dated April 8, 1939, manufactured by The Bastian-Blessing Co., 4201 West Petersen Avenue, Chicago, Ill. Approval No. 162.018/11/0 was published in the FEDERAL REGISTER of July 31, 1947.

Termination of Approval No. 162.018/12/0, Roney rotary liquid level gauge, liquefied petroleum gas service, marked "Rego No. 2472B", bronze body, Dwg. No.

2472B dated June 30, 1939, manufactured by The Bastian-Blessing Co., 4201 West Petersen Avenue, Chicago, Ill. Approval No. 162.018/12/0 was published in the FEDERAL REGISTER of July 31, 1947.

Termination of Approval No. 162.018/13/0, Rego fixed liquid level gauge, liquefied petroleum gas service, marked "Rego No. 2163", bronze body, fitted with vent hole and seal plug, Dwg. No. 2143 and Catalog No. L-500 Section LJ, manufactured by The Bastian-Blessing Co., 4201 West Petersen Avenue, Chicago, Ill. Approval No. 162.018/13/0 was published in the FEDERAL REGISTER of July 31, 1947.

Termination of Approval No. 162.018/15/0, Rego tank angle valve, liquefied petroleum gas service, marked "Rego No. 2892", bronze body, paraprene valve disc and c. i. rubber diaphragm, flanged tank connection, Dwg. No. 2892, revised April 10, 1941, Alt. G and Catalog L-500 section LE, approved for 1 1/4" port opening, manufactured by The Bastian-Blessing Co., 4201 West Petersen Avenue, Chicago, Ill. Approval No. 162.018/15/0 was published in the FEDERAL REGISTER of July 31, 1947.

(R. S. 4417a, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275; 46 CFR Part 38)

## CONDITIONS OF TERMINATION OF APPROVALS

The termination of approvals of equipment made by this document shall be made effective upon the thirty-first day after the date of publication of this document in the FEDERAL REGISTER. Notwithstanding this termination of approval on any item of equipment, such equipment manufactured before the effective date of termination of approval may be used so long as it is in good and serviceable condition.

Dated: June 2, 1948.

[SEAL] MERLIN O'NEILL,  
Rear Admiral, U. S. Coast Guard,  
Acting Commandant.

[F. R. Doc. 48-5134; Filed, June 8, 1948; 8:56 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket No. SR-1987]

CHARLES ROBERT SISTO

## NOTICE OF ORAL ARGUMENT

In the matter of T. P. Wright, Administrator of Civil Aeronautics, plaintiff, vs. Charles Robert Sisto, defendant.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 1004 (a) of said act, that oral argument in this cause is assigned to be heard June 21, 1948, at 10:00 a. m. (eastern daylight saving time) in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., June 3, 1948.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,  
Secretary.

[F. R. Doc. 48-5101; Filed, June 8, 1948; 8:48 a. m.]



# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 7331]

BERKS BROADCASTING CO. (WEEU)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Berks Broadcasting Company (WEEU), Reading, Pennsylvania, Docket No. 7331, File No. BP-4380; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of June 1948;

The Commission having under consideration the above-entitled application of Berks Broadcasting Company requesting authority to change the facilities of Station WEEU, Reading, Pennsylvania, from 850 kc, 1 kw, daytime only, to 850 kc, 1 kw, unlimited time, to install new transmitter, to change transmitter location and to use a directional antenna for night use; and

Whereas, the Commission on October 29, 1947, issued an order making final its proposed decision to grant the above-entitled application of Berks Broadcasting Company (WEEU) subject to approval by the Civil Aeronautics Administration of the antenna structure and site; and

It appearing, that the Commission has been notified by the Civil Aeronautics Administration that the antenna construction proposed in the said application would, in its opinion, constitute an undue hazard to air navigation;

*It is ordered*, That the above-entitled application of Berks Broadcasting Company, be, and it is hereby, designated for hearing at a time and place to be designated by the Commission, upon the following issue only:

To determine whether the antenna site and construction proposed in the application would constitute an undue hazard to air navigation.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 48-5128; Filed, June 8, 1948; 8:54 a. m.]

[Docket Nos. 8474, 8961]

BERT WILLIAMSON AND JOHN A. BOHN

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Bert Williamson, Martinez, California, Docket No. 8474, File No. BP-6114, John A. Bohn, Martinez, California, Docket No. 8961, File No. BP-6696; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of May 1948;

The Commission having under consideration a petition filed on April 12, 1948, by Bert Williamson for removal of his above-entitled application from the hearing docket and for a grant thereof, and also having under consideration the above-entitled application of John A.

Bohn seeking a new standard broadcast station to operate on the frequency 1330 kc, 500 watts power, daytime only, at Martinez, California; and

It appearing, that the Commission on July 24, 1947, designated for hearing the above-entitled application of Bert Williamson which, as amended, requested a construction permit for a new standard station to operate on the frequency 1330 kc, with 250 watts power, unlimited time, at Martinez, California;

*It is ordered*, That pursuant to section 3.09 (a) of the Communications Act of 1934 as amended, the said application of John A. Bohn be, and it is hereby designated for hearing in a consolidated proceeding with the application of Bert Williamson on June 4, 1948, at Washington, D. C., upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character of other broadcast service available to these areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

*It is further ordered*, That the Commission's order, dated July 24, 1947, designating for hearing the above-entitled application of Bert Williamson be, and it is hereby, amended to include the said application of John A. Bohn and to include among the issues, Issue No. 7, stated above.

*It is further ordered*, That the aforesaid petition of Bert Williamson be, and it is hereby, denied.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 48-5126; Filed, June 8, 1948; 8:53 a. m.]

[Docket No. 8610]

GRINER-DILLON BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Griner-Dillon Broadcasting Co., Bay City, Michigan, Docket No. 8610, File No. BP-6378, for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 2d day of June 1948;

The Commission having under consideration the above-entitled application for a construction permit for a new standard broadcast station to operate at Bay City, Michigan on 1350 kc, 500 w, daytime only;

*It is ordered*, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the interests now or formerly held by any of applicant's officers in other broadcast facilities or pending applications, the circumstances leading to the disposal of such interests, whether activity in connection with filing or disposing of interests in the current application or such other applications or facilities involve trafficking in frequencies or license privileges, to what station any of applicant's officers intend to devote their services full time, and to otherwise determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders, to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with Station WBBC, Flint, Michigan, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

*It is further ordered*, That Booth Radio Stations, Inc., licensee of Station WBBC,



Flint, Michigan, be, and it is hereby, made a party to this proceeding.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 48-5127; Filed, June 8, 1948;  
8:53 a. m.]

[Docket Nos. 8954-8957, 9015]

WISCONSIN BROADCASTING SYSTEM, INC.,  
ET AL.

ORDER DESIGNATING APPLICATIONS FOR CON-  
SOLIDATED HEARING ON STATED ISSUES

In re applications of Wisconsin Broad-  
casting System, Inc., Milwaukee, Wiscon-  
sin, Docket No. 8954, File No. BPCT-377;  
Hearst Radio, Inc., Milwaukee, Wiscon-  
sin, Docket No. 8955, File No. BPCT-383;  
Kapital City Broadcasting Company,  
Milwaukee, Wisconsin, Docket No. 8956,  
File No. BPCT-401; WEXT, Inc., Mil-  
waukee, Wisconsin, Docket No. 8957, File  
No. BPCT-406; Milwaukee Broadcasting  
Company, Milwaukee, Wisconsin, File No.  
BPCT-472, Docket No. 9015; for con-  
struction permits for television broadcast  
stations.

At a session of the Federal Communi-  
cations Commission held at its office in  
Washington, D. C., on the 2d day of June  
1948;

The Commission having under consid-  
eration the above application of Milwau-  
kee Broadcasting Company (File No.  
BPCT-472) for a construction permit for  
a television broadcast station to operate  
unlimited time on a television channel  
allocated to the Milwaukee metropolitan  
district under § 3.606 of the Commission's  
rules and regulations; and

It appearing, that on April 29, 1948, the  
Commission designated the above appli-  
cations File Nos. BPCT-377, BPCT-383,  
BPCT-401, and BPCT-406 for consoli-  
dated hearing because said applications  
exceeded in number the unassigned tele-  
vision channels allocated to the Milwau-  
kee metropolitan district;

It is ordered, That pursuant to section  
309 (a) of the Communications Act of  
1934, as amended, the above application  
of Milwaukee Broadcasting Company  
(File No. BPCT-472) be, and it is hereby,  
designated for hearing in a consolidated  
proceeding with the other applications  
for stations at Milwaukee, Wisconsin,  
above File Nos. BPCT-377, BPCT-383,  
BPCT-401, and BPCT-406, at a time and  
place to be designated by the Commis-  
sion upon the following issues:

1. To determine the legal, technical,  
financial and other qualifications of the  
applicant to operate and construct the  
proposed station.

2. To obtain full information with re-  
spect to the nature and character of the  
proposed program service.

3. To determine the areas and popu-  
lations which may be expected to receive  
service from the proposed station.

4. To determine whether the operation  
of the proposed station would involve ob-  
jectionable interference with any other  
existing television broadcast stations  
and, if so, the nature and extent thereof,

the areas and populations affected there-  
by, and the availability of other television  
broadcast service to such areas and pop-  
ulations.

5. To determine whether the operation  
of the proposed station would involve ob-  
jectionable interference with the serv-  
ices proposed in any other pending ap-  
plications for television broadcast facil-  
ities and, if so, the nature and extent  
thereof, the areas and populations af-  
fected thereby, and the availability of  
other television broadcast service to such  
areas and populations.

6. To determine whether the installa-  
tion and operation of the proposed sta-  
tion would be in compliance with the  
Commission's rules governing television  
broadcast stations, and its Standards of  
Good Engineering Practice Concerning  
Television Broadcast Stations.

7. To determine on a comparative basis  
which, if any, of the applications in this  
consolidated proceeding should be  
granted.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 48-5129; Filed, June 8, 1948;  
8:54 a. m.]

[Docket Nos. 9009, 9010]

KFAB BROADCASTING CO. AND CENTRAL  
STATES BROADCASTING CO.

ORDER DESIGNATING APPLICATIONS FOR CON-  
SOLIDATED HEARING ON STATED ISSUES

In re applications of KFAB Broadcast-  
ing Company, Omaha, Nebraska, File No.  
BPCT-390, Docket No. 9009, Central  
States Broadcasting Company, Omaha,  
Nebraska, File No. BPCT-475, Docket No.  
9010; for construction permits for tele-  
vision stations.

At a session of the Federal Communi-  
cations Commission held at its offices in  
Washington, D. C., on the 2d day of June  
1948;

The Commission having under consid-  
eration the above-entitled applications  
for construction permits for television  
broadcast stations at Omaha, Nebraska;  
and

It appearing, that the above applicants  
each request full time operation on chan-  
nels allocated to the Omaha-Council  
Bluffs metropolitan district under § 3.606  
of the Commission's rules and regula-  
tions; and

It further appearing, that the appli-  
cations exceed in number the unassigned  
television channels allocated to the  
Omaha-Council Bluffs metropolitan dis-  
trict;

It is ordered, That pursuant to sec-  
tion 309 (a) of the Communications Act  
of 1934, as amended, the above-entitled  
applications are hereby designated for  
hearing in a consolidated proceeding at  
a time and place to be designated by the  
Commission upon the following issues:

1. To determine the legal, technical,  
financial and other qualifications of the  
applicant to operate and construct the  
proposed station.

2. To obtain full information with re-  
spect to the nature and character of the  
proposed program service.

3. To determine the areas and popu-  
lations which may be expected to receive  
service from the proposed station.

4. To determine whether the opera-  
tion of the proposed station would in-  
volve objectionable interference with any  
other existing television broadcast sta-  
tions and, if so, the nature and extent  
thereof, the areas and populations af-  
fected thereby, and the availability of  
other television broadcast service to such  
areas and populations.

5. To determine whether the operation  
of the proposed station would involve  
objectionable interference with the serv-  
ices proposed in any other pending ap-  
plications for television broadcast facilities  
and, if so, the nature and extent thereof,  
the areas and populations affected there-  
by, and the availability of other televi-  
sion broadcast service to such areas and  
populations.

6. To determine whether the installa-  
tion and operation of the proposed sta-  
tion would be in compliance with the  
Commission's rules governing television  
broadcast stations, and its Standards of  
Good Engineering Practice Concerning  
Television Broadcast Stations.

7. To determine on a comparative basis  
which, if any, of the applications in this  
consolidated proceeding should be  
granted.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 48-5131; Filed, June 8, 1948;  
8:54 a. m.]

[Docket Nos. 9011-9014]

M. R. SCHACKER ET AL.

ORDER DESIGNATING APPLICATIONS FOR  
CONSOLIDATED HEARING ON STATED ISSUES

In re applications of M. R. Schacker,  
Sacramento, California, File No. BPCT  
402, Docket No. 9011, Sacramento Broad-  
casters, Inc., Sacramento, California,  
File No. BPCT-411, Docket No. 9012, Mc-  
Clatchy Broadcasting Company, Sacra-  
mento, California, File No. BPCT-450,  
Docket No. 9013, Ewing C. Kelly, David  
R. McKinley, and Vernon Hansen d/b as  
Central Valleys Broadcasting Company,  
Sacramento, California, File No. BPCT-  
461, Docket No. 9014; For construction  
permits for television stations.

At a session of the Federal Communi-  
cations Commission held at its offices in  
Washington, D. C., on the 2d day of June  
1948;

The Commission having under consid-  
eration the above-entitled applications  
for construction permits for television  
broadcast stations at Sacramento, Cali-  
fornia; and

It appearing, that each of the above  
applicants request full time operation on  
a channel allocated to the Sacramento  
metropolitan district under § 3.606 of the  
Commission's rules and regulations; and

It further appearing, that the appli-  
cations exceed in number the television  
channels allocated to the Sacramento  
metropolitan district;



*It is ordered,* That pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding at a time and place to be designated by the Commission upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant to operate and construct the proposed station.

2. To obtain full information with respect to the nature and character of the proposed program service.

3. To determine the areas and populations which may be expected to receive service from the proposed station.

4. To determine whether the operation of the proposed station would involve objectionable interference with any other existing television broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other television broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for television broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other television broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules governing television broadcast stations, and its Standards of Good Engineering Practice Concerning Television Broadcast Stations.

7. To determine on a comparative basis which, if any, of the applications in this consolidated proceeding should be granted.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 48-5130; Filed, June 8, 1948;  
8:54 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. G-1020]

KENTUCKY WEST VIRGINIA GAS CO.

ORDER FURTHER POSTPONING HEARING

The Commission having under consideration a request for a further postponement of the hearing in the above matter from June 7, 1948, to June 21, 1948:

*It is ordered,* That the hearing in the above matter be and the same is hereby postponed to June 21, 1948, at 10:00 a. m. (e. d. s. t.), in the Commission's Hearing Room, 1800 Pennsylvania Avenue NW., Washington, D. C.

Date of issuance: June 4, 1948.

By the Commission.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 48-5102; Filed June 8, 1948;  
8:48 a. m.]

## FEDERAL TRADE COMMISSION

[File No. 21-411]

HANDKERCHIEF INDUSTRY

NOTICE OF HOLDING OF TRADE PRACTICE  
CONFERENCE

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 4th day of June 1948.

Notice is hereby given that a Trade Practice Conference will be held by the Federal Trade Commission for the Handkerchief Industry in the Waldorf-Astoria Hotel, 50th Street and Park Avenue, New York, New York, on June 24, 1948, commencing at 10 a. m., daylight saving time.

The industry for which the Conference is called is composed of the persons, firms, or corporations engaged in the manufacture, importing, or marketing of men's, women's, and children's handkerchiefs of all descriptions. All members of the industry are cordially invited to attend or be represented at the Conference.

The Conference and further proceedings in the matter will be directed toward the eventual establishment and promulgation by the Commission of trade practice rules for the industry under which unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses, may be eliminated and prevented.

By direction of the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 48-5121; Filed, June 8, 1948;  
8:52 a. m.]

## INTERSTATE COMMERCE COMMISSION

[S. O. 790, Amdt. 12 to Special Directive 25]

BALTIMORE AND OHIO RAILROAD CO.

DIRECTIVE TO FURNISH CARS FOR RAILROAD  
COAL SUPPLY

Upon further consideration of the provisions of Special Directive No. 25 (12 F. R. 8389; 13 F. R. 301, 407, 1272, 1292, 2420), under Service Order No. 790 (12 F. R. 7791), and good cause appearing therefor:

*It is ordered,* That Special Directive No. 25, be, and it is hereby amended by substituting paragraph (1) hereof for paragraph (1) thereof:

(1) To furnish to the mines listed below cars for the loading of The Central Railroad Company of New Jersey fuel coal in the number specified from its total available supply of cars suitable for the transportation of coal:

Whitebridge	25
Ruth	20

A copy of this amendment shall be served upon The Baltimore and Ohio Railroad Company and notice of this amendment shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the

Director of the Division of the Federal Register.

Issued at Washington, D. C., this 2d day of June A. D. 1948.

INTERSTATE COMMERCE  
COMMISSION,

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 48-5092; Filed, June 8, 1948;  
8:47 a. m.]

[S. O. 790, Special Directive 65A]

BALTIMORE AND OHIO RAILROAD CO.

ORDER TO VACATE DIRECTIVE TO FURNISH  
CARS FOR RAILROAD COAL SUPPLY

Upon further consideration of the provisions of Service Order No. 790 (12 F. R. 7791) and good cause appearing therefor:

*It is ordered,* That Special Directive No. 65 under Service Order No. 790, be, and it is hereby vacated effective 12:01 a. m., June 3, 1948.

A copy of this special directive shall be served upon The Baltimore and Ohio Railroad Company and notice of this directive shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 2d day of June A. D. 1948.

INTERSTATE COMMERCE  
COMMISSION,

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 48-5093; Filed, June 8, 1948;  
8:47 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 59-9, 59-88]

PHILADELPHIA CO. ET AL.

ORDER REQUIRING DISPOSITION OF INTERESTS  
IN CERTAIN PROPERTIES AND DISSOLUTION  
OF REGISTERED HOLDING COMPANY

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 1st day of June A. D. 1948.

In the matter of Philadelphia Company and certain of its subsidiary companies and Standard Power and Light Corporation and Standard Gas and Electric Company, respondents, File No. 59-88; Standard Power and Light Corporation, Standard Gas and Electric Company, and subsidiary companies thereof, respondents, File No. 59-9.

The Commission having instituted proceedings under sections 11 (b) (1) and 11 (b) (2) of the Public Utility Holding Company Act of 1935 with respect to the holding company system of Philadelphia Company, a registered holding company, and

Public hearings having been held after appropriate notice, briefs having been



filed, the Commission having heard oral argument, and

The Commission having this day issued its findings and opinion in respect to these proceedings, on the basis of said findings and opinion,

*It is ordered*, Pursuant to section 11 (b) (1) of the act, that Philadelphia Company dispose of its natural gas properties (including production, transmission and distribution facilities) presently leased to and operated by Equitable Gas Company and terminate its relationship with the following companies by disposing of or causing the disposition, in an appropriate manner not in contravention of the act or the rules, regulations or orders of the Commission thereunder, of any interest, direct or indirect, which it now holds in the securities or properties of the following companies, and that Standard Gas and Electric Company cause Philadelphia Company to take such action:

Pittsburgh & West Virginia Gas Co.,  
Equitable Gas Co.,  
Finleyville Oil and Gas Co.,  
Philadelphia Oil Co.,  
Kentucky West Virginia Gas Co.,  
Pittsburgh Railways Co., Pittsburgh Motor Coach Co., and the 41 subsidiary and underlier companies in the Pittsburgh Railways System.

*Provided, however*, That jurisdiction be and hereby is reserved to determine what further action, if any, is required to be taken by Philadelphia Company under section 11 (b) (1) of the act with respect to its interests in Equitable Auto Company, Equitable Real Estate Company and Equitable Sales Company.

*It is further ordered*, Pursuant to section 11 (b) (2) of the act, that Philadelphia Company take appropriate steps, in an appropriate manner not in contravention of the act or the rules, regulations or orders of the Commission thereunder, to liquidate and dissolve and that Standard Gas and Electric Company cause appropriate steps to be taken to effect such liquidation and dissolution.

*It is further ordered*, That so much of the motion filed by Philadelphia Company as requests deferment of the entry of the order of the Commission under section 11 (b) be and hereby is denied.

*It is further ordered*, That the motion filed by Philadelphia Company to dismiss the proceedings be and hereby is denied.

*It is further ordered*, That the motion of Philadelphia Company to strike portions of the brief filed by Counsel for the Division of Public Utilities be and hereby is denied.

*It is further ordered*, That jurisdiction be and hereby is reserved to enter such other and further orders and to take such other action as the Commission may deem necessary or appropriate to insure compliance by respondents with the act and the Commission's rules, regulations and orders thereunder.

*It is further ordered*, That this order shall be effective immediately upon its issuance.

By the Commission.

[SEAL]

ORVAL L. DuBois,  
Secretary.

[F. R. Doc. 48-5086; Filed, June 8, 1948;  
8:46 a. m.]

[File No. 70-1794]

# NEW YORK STATE ELECTRIC & GAS CORP.

## SUPPLEMENTAL ORDER RELEASING JURISDICTION CONCERNING ISSUE AND SALE OF PREFERRED STOCK AND FEE AND EXPENSES OF INDEPENDENT COUNSEL

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 2d day of June 1948.

New York State Electric & Gas Corporation ("NYSEG"), a subsidiary of General Public Utilities Corporation, a registered holding company, having filed an application, and amendments thereto, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule U-50 promulgated thereunder, wherein NYSEG proposed to issue and sell \$5,500,000 principal amount of First Mortgage Bonds, ----% Series, due April 1, 1978, and 35,000 shares of \$100 par value ----% Cumulative Preferred Stock, the gross proceeds to be realized from the sale thereof to be applied toward meeting the cost of construction and improvement of facilities of the company; and

The Commission having by order dated April 26, 1948, granted said application, as amended, subject to the conditions, among others, that (1) NYSEG obtain from the Public Service Commission of the State of New York a final order expressly authorizing the issue and sale of said bonds and preferred stock, and (2) the proposed issuance and sale of securities not be consummated until the results of the competitive bidding, pursuant to Rule U-50, have been made a matter of record in the proceeding and a further order shall have been entered in the light of the record so completed, jurisdiction being reserved for this purpose, and the Commission having reserved jurisdiction over the payment of the fee and expenses of independent counsel for prospective underwriters; and

The Commission, on May 4, 1948, having released jurisdiction it theretofore reserved with respect to the results of competitive bidding for the first mortgage bonds; and

NYSEG having now filed a further amendment to its application, as amended, in which is contained a final order of the Public Service Commission of the State of New York authorizing the issue and sale of the preferred stock and in which, in accordance with the permission granted by said order of the Commission dated April 26, 1948, it has offered its preferred stock for sale pursuant to the competitive bidding requirements of Rule U-50 and has received the following bids:

Bidder	Price to company	Dividend rate	Annual cost to company
W. C. Langley & Co., Lehman Bros., and Glore, Forgan & Co., Inc.	\$100,5399	4.50	4.4758
Harriman Ripley & Co., Inc.	101.009	4.55	4.5045
Blyth & Co., Inc., and Smith, Barney & Co., Inc.	100.56	4.70	4.6738

The amendment further stating that NYSEG has accepted the bid of W. C. Langley & Co., Lehman Brothers, and Glore, Forgan & Co. for the preferred stock as set out above and that the preferred stock will be offered for sale to the public at a price of \$103.25 per share, resulting in an underwriters' spread of \$2.7101 per share; and

The amendment further stating that the fee of independent counsel for the prospective underwriters, Davis Polk Wardwell Sunderland & Kiendl, is to be \$10,000, of which \$6,000 is to be applicable to the bonds and \$4,000 to the preferred stock and that the expenses are estimated at an amount not to exceed \$200; and

The Commission having examined said amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to the issue and sale of the preferred stock, and it appearing that the proposed fee and expenses of Davis Polk Wardwell Sunderland & Kiendl are for necessary services and expenses and are not unreasonable:

*It is ordered*, That the jurisdiction heretofore reserved in connection with the issue and sale of the preferred stock and the fee and expenses of independent counsel for prospective underwriters be, and the same hereby is, released, subject, however, to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL]

ORVAL L. DuBois,  
Secretary.

[F. R. Doc. 48-5082; Filed, June 8, 1948;  
8:45 a. m.]

[File No. 70-1793]

# NARRAGANSETT ELECTRIC CO.

## SUPPLEMENTAL ORDER RELEASING JURISDICTION AND GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 2d day of June A. D. 1948.

The Narragansett Electric Company ("Narragansett"), a public utility subsidiary of New England Electric System, a registered holding company, having filed an application and amendments thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 and rules and regulations promulgated thereunder, with respect to the issuance and sale by Narragansett of \$10,000,000 principal amount of its First Mortgage Bonds, Series B, ----%, due 1978; and

The Commission having by order dated May 19, 1948, granted said application, as amended, subject to the condition that the proposed issuance and sale of bonds shall not be consummated until the results of competitive bidding pursuant to Rule U-50 have been made a matter of record in this proceeding and a further order shall have been entered by this Commission in the light of the record so completed; and

Narragansett having on June 2, 1948, filed a further amendment to said ap-



plication stating that the said bonds have been offered for sale pursuant to the competitive bidding requirements of Rule U-50 and that the following bids therefor were received:

Name of bidder	Coupon rate	Price to company (percent of principal amount) <sup>1</sup>	Cost to company
	Per-		Per-
Halsey, Stuart & Co., Inc.	3	101.85	2.9072
Harriman Ripley & Co., Inc.	3	101.6399	2.9176
Salomon Bros. & Hutzler	3	101.57119	2.9210
Kidder, Peabody & Co.	3	101.431	2.9280
The First Boston Corp.	3	101.40	2.9295
Lehman Bros.	3	101.3999	2.9295
Goldman, Sachs & Co.			
White, Weld & Co.	3	100.55011	2.9722

<sup>1</sup> Plus accrued interest from May 1, 1948.

The amendment further stating that Naragansett has accepted the bid of Halsey, Stuart & Co., Inc., for the First Mortgage Bonds as set forth above, and that said bonds will be offered for sale to the public at a price of 102.39% of the principal amount thereof, plus accrued interest, resulting in an underwriting spread of 0.54% of the principal amount of the bonds; and

The Commission having examined said amendment and having considered the record herein and finding that the applicable standards of the act and the rules and regulations thereunder have been complied with, and observing no basis for imposing terms and conditions with respect to the price to be paid for said bonds, or the underwriter's spread and allocation thereof:

*It is hereby ordered*, That the jurisdiction heretofore reserved in connection with the issue and sale of said First Mortgage Bonds be, and the same hereby is, released, and the said application, as further amended, be, and the same hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24 of the general rules and regulations under the act.

By the Commission.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F. R. Doc. 48-5083; Filed, June 8, 1948;  
8:45 a. m.]

[File No. 70-1830]

KANSAS CITY POWER & LIGHT CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at the office in the city of Washington, D. C. on the 2d day of June A. D. 1948.

Kansas City Power & Light Company ("Kansas City"), a public utility subsidiary of Continental Gas & Electric Corporation, a registered holding company subsidiary of The United Light and Railways Company, also a registered holding company, having filed an application-declaration and amendments thereto, pursuant to the applicable provisions of the Public Utility Holding Company Act

of 1935 ("act") and the rules and regulations promulgated thereunder, with respect to the issue and sale, at competitive bidding, of \$12,000,000 principal amount of First Mortgage Bonds, ----% Series due 1978, and 80,000 shares of \$100 par value Cumulative Preferred Stock, the proceeds of which are to be used to retire \$3,860,000 principal amount of outstanding 1¼% short-term notes issued to temporarily finance construction requirements, to reimburse the company for expenditures heretofore made for like purposes, and for the construction of additional facilities; and

Kansas City proposing to issue the Cumulative Preferred Stock subject to a Purchase Fund Agreement and in connection therewith having requested that the order of the Commission provide that so long as any shares of the Cumulative Preferred Stock proposed to be issued and sold remain outstanding, and, notwithstanding the requirements of Rule U-42 (or of any similar rule or regulation relating to the acquisition of capital stock by a registered holding company or subsidiary thereof promulgated by the Commission under the provisions of the act), the acquisition in any calendar year of such number of shares of the ----% Cumulative Preferred Stock as may be necessary to meet the Purchase Fund requirements for such year, be exempted from the provisions of any such rule, that said exemption shall not be applicable at any time that dividends on any shares of Cumulative Preferred Stock or any shares of senior or parity stock are in arrears, and that said exemption be conditioned upon the company reporting to the Commission within a period of 30 days after the termination of the operation of the Purchase Fund for each year in which the Purchase Fund is operative, the number of shares of the ----% Preferred Stock purchased pursuant to the provisions of said Purchase Fund for such year, the price at which such shares were purchased, and whether such shares were purchased on a securities exchange or brokers board, in the open market, or through tenders; and

Kansas City having also requested acceleration of the effectiveness of the Commission's order granting and permitting to become effective said application-declaration; and

A public hearing having been held after appropriate notice, and the Commission having considered the record and having made and filed its findings and opinion herein; and

It appearing appropriate that the request for an exemption from the requirements of Rule U-42 (or any similar rule or regulation) with respect to the operation of the Purchase Fund and for acceleration of the effectiveness of the Commission's order be granted:

*It is ordered*, That, subject, to the terms and conditions prescribed in Rule U-24, said application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith, subject, however, to the further following conditions:

1. That Kansas City procure and file in this proceeding a final certificate from

the State Corporation Commission of Kansas with relation to the issue and sale of said bonds and preferred stock;

2. That the proposed issue and sale of bonds and preferred stock shall not be consummated until the results of competitive bidding pursuant to Rule U-50 have been made a matter of record in this proceeding and a further order shall have been entered by this Commission in the light of the record so completed, which order may contain such further terms and conditions as may be deemed appropriate, jurisdiction for which purposes is hereby reserved; and

*It is further ordered*, That an exemption from the provisions of Rule U-42 (or of any similar rule or regulation relating to the acquisition of its capital stock by a registered holding company or subsidiary thereof promulgated by the Commission under the act), as requested with respect to the acquisition annually of such shares of the Cumulative Preferred Stock proposed to be issued and sold as may be necessary to satisfy requirements of the Purchase Fund, be, and it hereby is, granted.

*It is further ordered*, That jurisdiction be, and hereby is, reserved over the payment of all legal fees and expenses of counsel in connection with the proposed transaction.

By the Commission.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F. R. Doc. 48-5084; Filed, June 8, 1948;  
8:46 a. m.]

[File No. 70-1820]

NATIONAL GAS & OIL CORP.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 3d day of June A. D. 1948.

National Gas & Oil Corporation ("Gas & Oil"), a non-utility subsidiary company of National Gas & Electric Corporation, a registered holding company, having filed an application and amendments thereto with this Commission pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of sections 6 (a) and 7 of the act in respect of the following proposed transactions:

Gas & Oil is engaged in the production, purchase, and sale of natural gas, principally to industrial consumers, and in the production and sale of crude oil; and

Gas & Oil proposes to issue and sell to commercial banks, from time to time within the next twelve months following the effective date of the Commission's order herein, its promissory note or notes in amounts not to exceed in the aggregate \$350,000, including the company's presently outstanding bank loan in the amount of \$115,000, which shall bear interest at a rate not in excess of 4 percent per annum and which shall mature not later than one year from the date of issuance.

The applicant having stated that the proposed transactions are necessary in



order to continue the development program of the applicant's natural gas and oil reserves; and

Said application having been filed on May 3, 1948, and Notice of Filing having been duly given in the form and manner prescribed by Rule U-23 under said act, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Applicant having requested that the Commission's order granting said application become effective forthwith upon issuance; and

The Commission finding with respect to said application, as amended, that the issue and sale of securities as proposed meets the requirements of section 6 (b) of the act for exemption from the provisions of sections 6 (a) and 7, and finding no basis for imposing terms and conditions with respect thereto:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24, that said application, as amended, be, and hereby is granted and permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 48-5085; Filed, June 8, 1948;  
8:46 a. m.]

## DEPARTMENT OF JUSTICE Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 11243]

FRIEDA BOCH

In re: Claim of Frieda Boch. F-28-25138-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Frieda Boch, whose last known address is c/o Max Buhler, Oberdorf Str. #3, Bad Krizinger, By Freibg, Baden, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain claim of Frieda Boch, against the Superintendent of Banks, State of Ohio, as liquidator of The Guardian Trust Company, Room 1436 Guardian Building, P. O. Box 6537, Cleveland, Ohio, and/or The Guardian Trust Company, in liquidation, said claim numbered 10-919 and representing that portion of the proceeds of liquidation of the aforesaid trust company allocable to a savings account therein numbered 5031, entitled Frieda Boch, and any and all rights in and under said claim, including, but not limited to, the right to collect dividends thereunder numbered 4, 5, 6 and 7, in the amounts of \$24.16, \$48.33,

\$48.33 and \$24.16, respectively, and the right to receive any future payments thereunder,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 17, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5108; Filed, June 8, 1948;  
8:49 a. m.]

[Vesting Order 11250]

JOSEPH REUSCH

In re: Stock and check owned by and debt owing to Joseph Reusch. F-28-14083-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Joseph Reusch, whose last known address is Retsbach am Main, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Five hundred (500) shares of common stock of Henderson Producing Company, Billings, Montana, a corporation organized under the laws of the State of Wyoming, evidenced by a certificate numbered CS 949, registered in the name of Joseph Reusch, and presently in the custody of Robert B. Walkinshaw, Hoge Building, Seattle 4, Washington, together with all declared and unpaid dividends thereon,

b. One hundred (100) shares of common stock of Montana Finance Syndicate, Inc., Billings, Montana, a corporation organized under the laws of the State of Montana, evidenced by a certi-

cate numbered 74, registered in the name of Joseph Reusch and presently in the custody of Robert B. Walkinshaw, Hoge Building, Seattle 4, Washington, together with all declared and unpaid dividends thereon,

c. Sixty (60) shares of preferred stock of Montana Finance Syndicate, Inc., Billings, Montana, a corporation organized under the laws of the State of Montana, evidenced by a certificate numbered 89, registered in the name of Joseph Reusch and presently in the custody of Robert B. Walkinshaw, Hoge Building, Seattle 4, Washington, together with all declared and unpaid dividends thereon,

d. Five hundred (500) shares of common stock of Thompson-Elk Basin Oil and Gas Company, a corporation organized under the laws of the State of Montana, evidenced by a certificate numbered 1562, registered in the name of Paul Reusch and presently in the custody of Robert B. Walkinshaw, Hoge Building, Seattle 4, Washington, together with all declared and unpaid dividends thereon,

e. That certain debt or other obligation of the Seattle Trust and Savings Bank, Seattle, Washington, arising out of an account entitled "Estate of Paul Reusch, deceased, by H. Otto Giese, Trustee" maintained at the aforesaid bank and any and all rights to demand, enforce and collect the same, and

f. That certain debt or other obligation evidenced by one (1) check of Montana Finance Syndicate, Inc., in the amount of \$162.38, payable to Joseph Reusch and presently in the custody of Robert B. Walkinshaw, Hoge Building, Seattle 4, Washington, together with any and all accruals thereto and any and all rights to demand, enforce and collect the aforesaid debt or other obligation, including particularly the right to possession of and all rights of presentation for payment of the aforesaid check,

subject, however to any and all lawful attorney's liens of Robert B. Walkinshaw, Hoge Building, Seattle 4, Washington, arising out of accrued but unpaid fees for legal services, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Joseph Reusch, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all actions required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have



the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 17, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5110; Filed, June 8, 1948;  
8:49 a. m.]

[Vesting Order 11248]

CARLOS KOSTER

In re: Stock and warrants owned by and debt owing to Carlos Koster, also known as Carl Ludwig Koester. F-28-1783-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Carlos Koster, also known as Carl Ludwig Koester, whose last known address is (24) Stade/Elbe, Ritterstrasse 2, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, attached hereto

and by reference made a part hereof, registered in the name of W. C. Langley & Co., 115 Broadway, New York 6, New York, and presently in the custody of W. C. Langley & Co., 115 Broadway, New York 6, New York, together with all declared and unpaid dividends thereon,

b. One (1) American Gas & Power Company warrant certificate representing the right to subscribe to five (5) shares of common stock of the aforesaid American Gas & Power Company, 100 W. 10th Street, Wilmington, Delaware, said warrant certificate bearing the number W332, registered in the name of W. C. Langley & Co., 115 Broadway, New York 6, New York, and presently in the custody of W. C. Langley & Co., 115 Broadway, New York 6, New York, together with any and all rights thereunder and thereto,

c. That certain debt or other obligation owing to Carlos Koster, also known as Carl Ludwig Koester, by W. C. Langley & Co., 115 Broadway, New York 6, New York, in the amount of \$5,635.21, as of March 24, 1948, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evi-

dence of ownership or control by, Carlos Koster, also known as Carl Ludwig Koester, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 17, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

#### EXHIBIT A

Name and address of corporation	State of incorporation	Type of stock	Par value	Certificate No.	Number of shares
American Chicle Co., 30-30 Thomson Ave., Long Island City 1, N. Y.	New Jersey	Common	No par value	AC-051783	40
		do	No par value	AC-012852	10
		do	No par value	AC-016677	10
		do	\$1.00	CO-2164	10
American Gas & Power Co., 100 West 10th St., Wilmington, Del.	Delaware				
American Power & Light Co., 2 Rector St., New York, N. Y.	Maine	\$6 cumulative preferred	No par value	O-45174	5
		Common	No par value	O-176310	10
General Electric Co., 1 River Rd., Schenectady, N. Y.	New York	do	No par value	NYD-563415	20
Radio Corporation of America, R. C. A. Bldg., 30 Rockefeller Plaza, New York 20, N. Y.	Delaware	do	No par value	NO-600029	1
		do	No par value	NO-599081	11
		do	No par value	NO-421943	3
		do	\$100.00	NO-1925	12
West Penn Electric Co., 50 Broad St., New York 4, N. Y.	Maryland	6% cumulative preferred	No par value	TCO-1814	14
		Common			

[F. R. Doc. 48-5109; Filed, June 8, 1948; 8:49 a. m.]

[Vesting Order 11272]

MARIE BOLLWINKEL

In re: Trust under the will of Marie Bollwinkel, deceased. File No. D-28-12234; E. T. sec. 16459.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elisa Backer, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof in and to the trust created under the will of Marie Bollwinkel, deceased, is property payable or deliverable to, or claimed by the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Christopher Steinkamp, as Sole Surviving Executor and Trustee, acting under the judicial supervision of the Surrogate's Court of Bronx County, New York;

and it is hereby determined:

4. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country, (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or other-

wise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5111; Filed, June 8, 1948;  
8:49 a. m.]

[Vesting Order 11276]

YASU FUJISHIRO

In re: Rights of Yasu Fujishiro under insurance contract. File No. F-39-353-H-1.



Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Yasu Fujishiro, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 7899189, issued by the New York Life Insurance Company, New York, New York, to Shinji Fujishiro, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5112; Filed, June 8, 1948;  
8:49 a. m.]

[Vesting Order 11280]

CHRISTOPH KOCH

In re: Estate of Christoph Koch, deceased. File No. D-28-12247; E. T. sec. 16468.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Koch, Anna Eberle (sole survivor of Wilhelm Eberle, deceased), Karl Eberle, Frida Dalfert, and Marie Mautz, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, distributees, heirs-at-law, legatees and next-of-kin, names un-

known of Albert Eberle, deceased, except Edward Eberle, son, a resident of the United States, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraphs 1 and 2 hereof, and each of them, except Edward Eberle, a resident of the United States, in and to the estate of Christoph Koch, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Martin F. Koch, as Executor, acting under the judicial supervision of the Surrogate's Court of Nassau County, Mineola, New York;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs-at-law, legatees and next-of-kin, names unknown, of Albert Eberle, deceased, except Edward Eberle, son, a resident of the United States, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5113; Filed, June 8, 1948;  
8:49 a. m.]

[Vesting Order 11285]

FRIEDA DOROTHEE LESNY

In re: Trust under the will of Frieda Dorothee Lesny; deceased. File No. D-28-6275; E. T. sec. 2535.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hildegard Kaschna Wust, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the domiciliary personal representatives, distributees, heirs-at-law, legatees, and next-of-kin, names un-

known, of Mathilde Lesny, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the Trust created under the Will of Frieda Dorothee Lesny, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by William Becker as Trustee, acting under the judicial supervision of the Surrogate's Court, Orange County, New York;

and it is hereby determined:

5. That to the extent that the person identified in subparagraph 1 hereof, and the domiciliary personal representatives, distributees, heirs-at-law, legatees, and next-of-kin, names unknown, of Mathilde Lesny, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5114; Filed, June 8, 1948;  
8:50 a. m.]

[Vesting Order 11292]

EMILIE NICKISCH

In re: Trust under the Will of Emilie Nickisch, deceased. (File No. D-28-11552; E. T. sec. 15771).

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the Municipal Hospital, Kon-topp, Silesia, Germany, is a corporation, partnership, association or other business organization organized under the laws of Germany which has, or since the effective date of Executive Order 8389, as amended, has had, its principal place of business in Germany and is a national of a designated enemy country (Germany);



2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof in and to the Trust created under the Will of Emilie Nickisch, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Thomas L. J. Curran as executor of the estate of Thomas J. Curran, deceased trustee of the trust created under the will of Emilie Nickisch, deceased, acting under the judicial supervision of the Surrogate's Court, New York County, State of New York;

and it is hereby determined:

4. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5115; Filed, June 8, 1948;  
8:50 a. m.]

[Vesting Order 11310]

M. ELISABETH BENEDIX

In re: Rights of M. Elisabeth Benedix under annuity contract. File No. F-23-3037-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That M. Elisabeth Benedix, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of annuity evidenced by Group Contract 117 Certificate 18—Group Annuity Record 6897—GAB, issued by the Metropolitan Life Insurance Company, One Madison Avenue, New York, N. Y., to M. Elisabeth Benedix, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5119; Filed, June 8, 1948;  
8:50 a. m.]

[Vesting Order 11301]

SOPHIE SCHUMACHER

In re: Rights of Sophie Schumacher under insurance contracts. Files Nos. F-28-28608-H-1, H-2, H-3 and H-4.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Sophie Schumacher, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under contracts of insurance evidenced by policies Nos. 71065715, 71065716, 71065717 and 71065718, issued by the Prudential Insurance Company of America, Newark, New Jersey, to Sophie Schumacher, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-5116; Filed, June 8, 1948;  
8:50 a. m.]